

2013

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION
SIXTY-THIRD LEGISLATURE
Convened January 14, 2013. Adjourned April 28, 2013.



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

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

WASHINGTON SESSION LAWS GENERAL INFORMATION

1. EDITIONS AVAILABLE.

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

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

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

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

3. PARTIAL VETOES.

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

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

5. EFFECTIVE DATE OF LAWS.

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the effective date for the Laws of the 2013 regular session to be the first moment of July 28, 2013.
- (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 2013 laws may be found at the back of the final volume.

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CHAPTER 1

[Initiative 1185]

TAXES AND FEES IMPOSED BY STATE GOVERNMENT

AN ACT Relating to taxes and fees imposed by state government; amending RCW 43.135.034, 43.135.055, 43.135.031, and 43.135.041; creating new sections; and repealing 2010 c 4 s 2.

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

INTENT

NEW SECTION. Sec. 1. This initiative should deter the governor and the legislature from sidestepping, suspending, or repealing any of Initiative 1053's policies which voters approved by a huge margin in 2010. The people insist that tax increases receive either two-thirds legislative approval or voter approval and fee increases receive a simple majority vote. These important policies ensure that taxpayers will be protected and that taking more of the people's money will always be an absolute last resort.

PROTECTING TAXPAYERS BY REQUIRING EITHER TWO-THIRDS LEGISLATIVE APPROVAL OR VOTER APPROVAL FOR THE LEGISLATURE TO RAISE TAXES

Sec. 2. RCW 43.135.034 and 2011 c 1 s 2 are each amended to read as follows:

(1)(a) ~~((After July 1, 1995, a))~~ Any action or combination of actions by the legislature that raises taxes may be taken only if approved by ~~((at least))~~ a two-thirds ~~((legislative approval))~~ vote in both the house of representatives and the senate. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

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

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(3), in support of education or education expenditures; or (b) a transfer of moneys to, or an expenditure from, the budget stabilization account.

(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.

~~((6) For the purposes of *this chapter, "raises taxes" means any action or combination of actions by the legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.))~~

NOTES:

***Reviser's note:** Initiative Measure No. 1185 deleted the word "this" from subsection (6), which was being struck from existing code by the use of double parentheses with strike-through.

NEW SECTION. Sec. 3. 2010 c 4 s 2 is repealed.

**PROTECTING TAXPAYERS BY REQUIRING FEE INCREASES
RECEIVE A SIMPLE MAJORITY VOTE**

Sec. 4. RCW 43.135.055 and 2011 c 1 s 5 are each amended to read as follows:

(1) A fee may only be imposed or increased in any fiscal year if approved with a simple majority (~~(legislative approval)~~ vote in both the house of representatives and the senate and must be subject to the accountability procedures required by RCW 43.135.031.

(2) This section does not apply to an assessment made by an agricultural commodity commission or board created by state statute or created under a marketing agreement or order under chapter 15.65 or 15.66 RCW, or to the forest products commission, if the assessment is approved by referendum in accordance with the provisions of the statutes creating the commission or board or chapter 15.65 or 15.66 RCW for approving such assessments.

STATUTORY REFERENCE CORRECTIONS

Sec. 5. RCW 43.135.031 and 2010 [2008] c 1 s 2 are each amended to read as follows:

(1) For any bill introduced in either the house of representatives or the senate that raises taxes as defined by (~~(RCW 43.135.035)~~) RCW 43.135.034 or increases fees, the office of financial management must expeditiously determine its cost to the taxpayers in its first ten years of imposition, must promptly and without delay report the results of its analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, who are sponsors and cosponsors of the bill so they can provide information to, and answer questions from, the public.

(2) Any time any legislative committee schedules a public hearing on a bill that raises taxes as defined by (~~(RCW 43.135.035)~~) RCW 43.135.034 or increases fees, the office of financial management must promptly and without delay report the results of its most up-to-date analysis of the bill required by subsection (1) of this section and the date, time, and location of the hearing by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. The press release required by this subsection must include all the information required by subsection (1) of this section and the names of the legislators, and their contact information, who are members of the legislative committee conducting the hearing so they can provide information to, and answer questions from, the public.

(3) Each time a bill that raises taxes as defined by (~~(RCW 43.135.035)~~) RCW 43.135.034 or increases fees is approved by any legislative committee or by at least a simple majority in either the house of representatives or the senate, the office of financial management must expeditiously reexamine and redetermine its ten-year cost projection due to amendment or other changes

during the legislative process, must promptly and without delay report the results of its most up-to-date analysis by public press release via e-mail to each member of the house of representatives, each member of the senate, the news media, and the public, and must post and maintain these releases on its web site. Any ten-year cost projection must include a year-by-year breakdown. For any bill containing more than one revenue source, a ten-year cost projection for each revenue source will be included along with the bill's total ten-year cost projection. The press release shall include the names of the legislators, and their contact information, and how they voted on the bill so they can provide information to, and answer questions from, the public.

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

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

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

Sec. 6. RCW 43.135.041 and 2010 c 4 s 3 are each amended to read as follows:

(1)(a) After July 1, 2011, if legislative action raising taxes as defined by (~~RCW 43.135.035~~) RCW 43.135.034 is blocked from a public vote or is not referred to the people by a referendum petition found to be sufficient under RCW 29A.72.250, a measure for an advisory vote of the people is required and shall be placed on the next general election ballot under this chapter (~~(1, Laws of 2008)~~).

(b) If legislative action raising taxes enacted after July 1, 2011, involves more than one revenue source, each tax being increased shall be subject to a separate measure for an advisory vote of the people under the requirements of this chapter (~~(1, Laws of 2008)~~).

(2) No later than the first of August, the attorney general will send written notice to the secretary of state of any tax increase that is subject to an advisory vote of the people, under the provisions and exceptions provided by this chapter (~~(1, Laws of 2008)~~). Within five days of receiving such written notice from the attorney general, the secretary of state will assign a serial number for a measure for an advisory vote of the people and transmit one copy of the measure bearing its serial number to the attorney general as required by RCW 29A.72.040, for any tax increase identified by the attorney general as needing an advisory vote of the people for that year's general election ballot. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits in this subsection.

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

(4) If legislative action raising taxes is referred to the people by the legislature or is included in an initiative to the people found to be sufficient

under RCW 29A.72.250, then the tax increase is exempt from an advisory vote of the people under this chapter (~~(1, Laws of 2008)~~).

CONSTRUCTION CLAUSE

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

SEVERABILITY CLAUSE

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

MISCELLANEOUS

NEW SECTION. Sec. 9. This act is known and may be cited as "Save The 2/3's Vote For Tax Increases (Again) Act."

Originally filed in Office of Secretary of State January 6, 2012.
Approved by the People of the State of Washington in the General Election on November 6, 2012.

CHAPTER 2

[Initiative 1240]

PUBLIC CHARTER SCHOOLS

AN ACT Relating to public charter schools; amending RCW 28A.150.010, 28A.315.005, and 41.05.011; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.35 RCW; adding a new section to chapter 41.40 RCW; adding a new section to chapter 41.56 RCW; adding a new section to chapter 41.59 RCW; and adding a new chapter to Title 28A RCW.

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

PART I

INTENT, PURPOSE, AND FINDINGS

NEW SECTION. Sec. 101. (1) The people of the state of Washington in enacting this initiative measure find:

(a) In accordance with Article IX, section 1 of the state Constitution, "it is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex";

(b) All students deserve excellent educational opportunities and the highest quality standards of public education available;

(c) Many of our public schools are failing to address inequities in educational opportunities for all students, including academic achievement, drop-out rates, and other measures of educational success for students across all economic, racial, ethnic, geographic, and other groups;

(d) It is a priority of the people of the state of Washington to improve the quality of our public schools and the education and academic achievement of all students throughout our state;

(e) Forty-one states have public charter schools with many ranked higher in student performance than Washington's schools;

(f) Allowing public charter schools in Washington will give parents more options to find the best learning environment for their children;

(g) Public charter schools free teachers and principals from burdensome regulations that limit other public schools, giving them the flexibility to innovate and make decisions about staffing, curriculum, and learning opportunities to improve student achievement and outcomes;

(h) Public charter schools are designed to find solutions to problems that affect chronically underperforming schools and to better serve at-risk students who most need help;

(i) Public charter schools have cost-effectively improved student performance and academic achievement for students throughout the country, especially for students from the lowest-performing public schools;

(j) Public charter schools serving low-income, urban students often outperform traditional public schools in improving student outcomes and are closing the achievement gap for at-risk students;

(k) The Washington supreme court recently concluded, in *McLeary v. State*, that "The State has failed to meet its duty under Article IX, section 1 [to amply provide for the education of all children within its borders] by consistently providing school districts with a level of resources that falls short of the actual costs of the basic education program";

(l) The opportunity to provide education through public charter schools will create efficiencies in the use of the resources the state provides to school districts;

(m) Public charter schools, as authorized in chapter . . . , Laws of 2013 (this act), are "common schools" and part of the "general and uniform system of public schools" provided by the legislature as required by Article IX, section 2 of the state Constitution; and

(n) This initiative will:

(i) Allow a maximum of up to forty public charter schools to be established over a five-year period as independently managed public schools operated only by qualified nonprofit organizations approved by the state;

(ii) Require that teachers in public charter schools be held to the same certification requirements as teachers in other public schools;

(iii) Require that there will be annual performance reviews of public charter schools created under this measure, and that the performance of these schools be evaluated to determine whether additional public charter schools should be allowed;

(iv) Require that public charter schools be free and open to all students just like traditional public schools are, and that students be selected by lottery to ensure fairness if more students apply than a school can accommodate;

(v) Require that public charter schools be subject to the same academic standards as existing public schools;

(vi) Require public charter schools to be authorized and overseen by a state charter school commission, or by a local school board;

(vii) Require that public charter schools receive funding based on student enrollment just like existing public schools;

(viii) Allow public charter schools to be free from many regulations so that they have more flexibility to set curriculum and budgets, hire and fire teachers and staff, and offer more customized learning experiences for students; and

(ix) Give priority to opening public charter schools that serve at-risk student populations or students from low-performing public schools.

(2) Therefore, the people enact this initiative measure to authorize a limited number of public charter schools in the state of Washington, to be operated by qualified nonprofit organizations with strong accountability and oversight, and to evaluate the performance of these schools and potential benefits of new models for improving academic achievement for all students.

PART II AUTHORIZING CHARTER SCHOOLS

NEW SECTION. Sec. 201. DEFINITIONS—CHARTER SCHOOLS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant" means a nonprofit corporation that has submitted an application to an authorizer. The nonprofit corporation must be either a public benefit nonprofit corporation as defined in RCW 24.03.490, or a nonprofit corporation as defined in RCW 24.03.005 that has applied for tax exempt status under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)). The nonprofit corporation may not be a sectarian or religious organization and must meet all of the requirements for a public benefit nonprofit corporation before receiving any funding under section 222 of this act.

(2) "At-risk student" means a student who has an academic or economic disadvantage that requires assistance or special services to succeed in educational programs. The term includes, but is not limited to, students who do not meet minimum standards of academic proficiency, students who are at risk of dropping out of high school, students in chronically low-performing schools, students with higher than average disciplinary sanctions, students with lower participation rates in advanced or gifted programs, students who are limited in English proficiency, students who are members of economically disadvantaged families, and students who are identified as having special educational needs.

(3) "Authorizer" means an entity approved under section 209 of this act to review, approve, or reject charter school applications; enter into, renew, or revoke charter contracts with applicants; and oversee the charter schools the entity has authorized.

(4) "Charter contract" means a fixed term, renewable contract between a charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(5) "Charter school" or "public charter school" means a public school governed by a charter school board and operated according to the terms of a charter contract executed under this chapter and includes a new charter school and a conversion charter school.

(6) "Charter school board" means the board of directors appointed or selected under the terms of a charter application to manage and operate the charter school.

(7) "Commission" means the Washington charter school commission established in section 208 of this act.

(8) "Conversion charter school" means a charter school created by converting an existing noncharter public school in its entirety to a charter school under this chapter.

(9) "New charter school" means any charter school established under this chapter that is not a conversion charter school.

(10) "Parent" means a parent, guardian, or other person or entity having legal custody of a child.

(11) "Student" means any child eligible under RCW 28A.225.160 to attend a public school in the state.

NEW SECTION. Sec. 202. LEGAL STATUS. A charter school established under this chapter:

(1) Is a public, common school open to all children free of charge;

(2) Is a public, common school offering any program or course of study that a noncharter public school may offer, including one or more of grades kindergarten through twelve;

(3) Is governed by a charter school board according to the terms of a renewable, five-year charter contract executed under section 216 of this act;

(4) Is a public school to which parents choose to send their children;

(5) Functions as a local education agency under applicable federal laws and regulations and is responsible for meeting the requirements of local education agencies and public schools under those federal laws and regulations, including but not limited to compliance with the individuals with disabilities education improvement act (20 U.S.C. Sec. 1401 et seq.), the federal educational rights and privacy act (20 U.S.C. Sec. 1232g), and the elementary and secondary education act (20 U.S.C. Sec. 6301 et seq.).

NEW SECTION. Sec. 203. CHARTER SCHOOL BOARDS—POWERS.

(1) To carry out its duty to manage and operate the charter school and carry out the terms of its charter contract, a charter school board may:

(a) Hire, manage, and discharge any charter school employee in accordance with the terms of this chapter and that school's charter contract;

(b) Receive and disburse funds for the purposes of the charter school;

(c) Enter into contracts with any school district, educational service district, or other public or private entity for the provision of real property, equipment, goods, supplies, and services, including educational instructional services and including for the management and operation of the charter school to the same extent as other noncharter public schools, as long as the charter school board maintains oversight authority over the charter school. Contracts for management operation of the charter school may only be with nonprofit organizations;

(d) Rent, lease, purchase, or own real property. All charter contracts and contracts with other entities must include provisions regarding the disposition of the property if the charter school fails to open as planned or closes, or if the charter contract is revoked or not renewed;

(e) Issue secured and unsecured debt, including pledging, assigning, or encumbering its assets to be used as collateral for loans or extensions of credit to manage cash flow, improve operations, or finance the acquisition of real

property or equipment: PROVIDED, That the public charter school may not pledge, assign, or encumber any public funds received or to be received pursuant to section 222 of this act. The debt is not a general, special, or moral obligation of the state, the charter school authorizer, the school district in which the charter school is located, or any other political subdivision or agency of the state. Neither the full faith and credit nor the taxing power of the state or any political subdivision or agency of the state may be pledged for the payment of the debt;

(f) Solicit, accept, and administer for the benefit of the charter school and its students, gifts, grants, and donations from individuals or public or private entities, excluding from sectarian or religious organizations. Charter schools may not accept any gifts or donations the conditions of which violate this chapter or other state laws; and

(g) Issue diplomas to students who meet state high school graduation requirements established under RCW 28A.230.090. A charter school board may establish additional graduation requirements.

(2) A charter school board may not levy taxes or issue tax-backed bonds. A charter school board may not acquire property by eminent domain.

NEW SECTION. Sec. 204. CHARTER SCHOOLS—APPLICABILITY OF STATE LAWS. (1) A charter school must operate according to the terms of its charter contract and the provisions of this chapter.

(2) All charter schools must:

(a) Comply with local, state, and federal health, safety, parents' rights, civil rights, and nondiscrimination laws applicable to school districts and to the same extent as school districts, including but not limited to chapter 28A.642 RCW (discrimination prohibition) and chapter 28A.640 RCW (sexual equality);

(b) Provide basic education, as provided in RCW 28A.150.210, including instruction in the essential academic learning requirements and participate in the statewide student assessment system as developed under RCW 28A.655.070;

(c) Employ certificated instructional staff as required in RCW 28A.410.025: PROVIDED, That charter schools may hire noncertificated instructional staff of unusual competence and in exceptional cases as specified in RCW 28A.150.203(7);

(d) Comply with the employee record check requirements in RCW 28A.400.303;

(e) Adhere to generally accepted accounting principles and be subject to financial examinations and audits as determined by the state auditor, including annual audits for legal and fiscal compliance;

(f) Comply with the annual performance report under RCW 28A.655.110;

(g) Be subject to the performance improvement goals adopted by the state board of education under RCW 28A.305.130;

(h) Comply with the open public meetings act in chapter 42.30 RCW and public records requirements in chapter 42.56 RCW; and

(i) Be subject to and comply with legislation enacted after the effective date of this section governing the operation and management of charter schools.

(3) Public charter schools must comply with all state statutes and rules made applicable to the charter school in the school's charter contract and are subject to the specific state statutes and rules identified in subsection (2) of this section. Charter schools are not subject to and are exempt from all other state statutes and rules applicable to school districts and school district boards of directors, for the

purpose of allowing flexibility to innovate in areas such as scheduling, personnel, funding, and educational programs in order to improve student outcomes and academic achievement. Charter schools are exempt from all school district policies except policies made applicable in the school's charter contract.

(4) No charter school may engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

(5) Charter schools are subject to the supervision of the superintendent of public instruction and the state board of education, including accountability measures, to the same extent as other public schools, except as otherwise provided in chapter . . . , Laws of 2013 (this act).

NEW SECTION. Sec. 205. ADMISSION AND ENROLLMENT OF STUDENTS. (1) A charter school may not limit admission on any basis other than age group, grade level, or capacity and must enroll all students who apply within these bases. 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) A conversion charter school must provide sufficient capacity to enroll all students who wish to remain enrolled in the school after its conversion to a charter school, and may not displace students enrolled before the chartering process.

(4) If capacity is insufficient to enroll all students who apply to a charter school, the charter school must select students through a lottery to ensure fairness. However, a charter school must give an enrollment preference to siblings of already enrolled students.

(5) The 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.

(6) 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.

NEW SECTION. Sec. 206. CHARTER SCHOOL STUDENTS. (1) School districts must provide information to parents and the general public about charter schools located within the district as an enrollment option for students.

(2) If a student who was previously enrolled in a charter school enrolls in another public school in the state, the student's new school must accept credits earned by the student in the charter school in the same manner and according to the same criteria that credits are accepted from other public schools.

(3) A charter school is eligible for state or district-sponsored interscholastic programs, awards, scholarships, or competitions to the same extent as other public schools.

NEW SECTION. Sec. 207. AUTHORIZERS. The following entities are eligible to be authorizers of charter schools:

(1) The Washington charter school commission established under section 208 of this act, for charter schools located anywhere in the state; and

(2) School district boards of directors that have been approved by the state board of education under section 209 of this act before authorizing a charter school, for charter schools located within the school district's own boundaries.

NEW SECTION. Sec. 208. WASHINGTON CHARTER SCHOOL COMMISSION. (1) The Washington charter school commission is established as an independent state agency whose mission is to authorize high quality public charter schools throughout the state, particularly schools designed to expand opportunities for at-risk students, and to ensure the highest standards of accountability and oversight for these schools. The commission shall, through its management, supervision, and enforcement of the charter contracts, administer the portion of the public common school system consisting of the charter schools it authorizes as provided in this chapter, in the same manner as a school district board of directors, through its management, supervision, and enforcement of the charter contracts, and pursuant to applicable law, administers the charter schools it authorizes.

(2) The commission shall consist of nine members, no more than five of whom shall be members of the same political party. Three members shall be appointed by the governor; three members shall be appointed by the president of the senate; and three members shall be appointed by the speaker 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 a parent of a Washington public school student.

(3) 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 members shall have demonstrated an understanding of and commitment to charter schooling as a strategy for strengthening public education.

(4) Members shall be appointed to four-year, staggered terms, with initial appointments from each of the appointing authorities consisting 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 member may serve more than two consecutive terms. Initial appointments must be made no later than ninety days after the effective date of this section.

(5) Whenever a vacancy on the commission exists, the original appointing authority must appoint a member for the remaining portion of the term within no more than thirty days.

(6) Commission members shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(7) Operational and staff support for the commission shall be provided by the office of the governor until the commission has sufficient resources to hire or contract for separate staff support, who shall reside within the office of the governor for administrative purposes only.

(8) Sections 209 and 212 of this act do not apply to the commission.

NEW SECTION. Sec. 209. AUTHORIZERS—APPROVAL. (1) The state board of education shall establish an annual application and approval process and timelines for entities seeking approval to be charter school authorizers. The initial process and timelines must be established no later than ninety days after the effective date of this section.

(2) At a minimum, each applicant must submit to the state board:

(a) The applicant's strategic vision for chartering;

(b) A plan to support the vision presented, including explanation and evidence of the applicant's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing;

(c) A draft or preliminary outline of the request for proposals that the applicant would, if approved as an authorizer, issue to solicit charter school applicants;

(d) A draft of the performance framework that the applicant would, if approved as an authorizer, use to guide the establishment of a charter contract and for ongoing oversight and evaluation of charter schools;

(e) A draft of the applicant's proposed renewal, revocation, and nonrenewal processes, consistent with sections 219 and 220 of this act;

(f) A statement of assurance that the applicant seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of this chapter, and that if approved as an authorizer, the applicant will fully participate in any authorizer training provided or required by the state; and

(g) A statement of assurance that the applicant will provide public accountability and transparency in all matters concerning charter authorizing practices, decisions, and expenditures.

(3) The state board of education shall consider the merits of each application and make its decision within the timelines established by the board.

(4) Within thirty days of making a decision to approve an application under this section, the state board of education must execute a renewable authorizing contract with the entity. The initial term of an authorizing contract shall be six years. The authorizing contract must specify each approved entity's agreement to serve as an authorizer in accordance with the expectations of this chapter, and may specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity may commence charter authorizing without an authorizing contract in effect.

NEW SECTION. Sec. 210. AUTHORIZERS—POWERS AND DUTIES.

(1) Authorizers are responsible for:

(a) Soliciting and evaluating charter applications;

(b) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;

(c) Denying weak or inadequate charter applications;

(d) Negotiating and executing sound charter contracts with each authorized charter school;

(e) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter schools including, without limitation, education and academic performance goals and student achievement; and

(f) Determining whether each charter contract merits renewal, nonrenewal, or revocation.

(2) An authorizer may delegate its responsibilities under this section to employees or contractors.

(3) All authorizers must develop and follow chartering policies and practices that are consistent with the principles and standards for quality charter authorizing developed by the national association of charter school authorizers in at least the following areas:

(a) Organizational capacity and infrastructure;

(b) Soliciting and evaluating charter applications;

(c) Performance contracting;

(d) Ongoing charter school oversight and evaluation; and

(e) Charter renewal decision making.

(4) Each authorizer must submit an annual report to the state board of education, according to a timeline, content, and format specified by the board, which includes:

(a) The authorizer's strategic vision for chartering and progress toward achieving that vision;

(b) The academic and financial performance of all operating charter schools overseen by the authorizer, including the progress of the charter schools based on the authorizer's performance framework;

(c) The status of the authorizer's charter school portfolio, identifying all charter schools in each of the following categories: Approved but not yet open, operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;

(d) The authorizer's operating costs and expenses detailed in annual audited financial statements that conform with generally accepted accounting principles; and

(e) The services purchased from the authorizer by the charter schools under its jurisdiction under section 211 of this act, including an itemized accounting of the actual costs of these services.

(5) Neither an authorizer, individuals who comprise the membership of an authorizer in their official capacity, nor the employees of an authorizer are liable for acts or omissions of a charter school they authorize.

(6) No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a charter school under the jurisdiction of that authorizer.

NEW SECTION. Sec. 211. AUTHORIZERS—FUNDING. (1) The state board of education shall establish a statewide formula for an authorizer oversight fee, which shall be calculated as a percentage of the state operating funding allocated under section 222 of this act to each charter school under the jurisdiction of an authorizer, but may not exceed four percent of each charter school's annual funding. The office of the superintendent of public instruction shall deduct the oversight fee from each charter school's allocation under section 222 of this act and transmit the fee to the appropriate authorizer.

(2) The state board of education may establish a sliding scale for the authorizer oversight fee, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of years of authorizing or after a certain number of charter schools have been authorized.

(3) An authorizer must use its oversight fee exclusively for the purpose of fulfilling its duties under section 210 of this act.

(4) An authorizer may provide contracted, fee-based services to charter schools under its jurisdiction that are in addition to the oversight duties under section 210 of this act. An authorizer may not charge more than market rates for the contracted services provided. A charter school may not be required to purchase contracted services from an authorizer. Fees collected by the authorizer under this subsection must be separately accounted for and reported annually to the state board of education.

NEW SECTION. Sec. 212. AUTHORIZERS—OVERSIGHT. (1) The state board of education is responsible for overseeing the performance and effectiveness of all authorizers approved under section 209 of this act.

(2) Persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances may trigger a special review by the state board of education.

(3) In reviewing or evaluating the performance of authorizers, the board must apply nationally recognized principles and standards for quality charter authorizing. Evidence of material or persistent failure by an authorizer to carry out its duties in accordance with the principles and standards constitutes grounds for revocation of the authorizing contract by the state board, as provided under this section.

(4) If at any time the state board of education finds that an authorizer is not in compliance with a charter contract, its authorizing contract, or the authorizer duties under section 210 of this act, the board must notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond and remedy the problems.

(5) If an authorizer persists after due notice from the state board of education in violating a material provision of a charter contract or its authorizing contract, or fails to remedy other identified authorizing problems, the state board of education shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

(6) In the event of revocation of any authorizer's chartering authority, the state board of education shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with the mutual agreement of each affected charter school and proposed new authorizer. The new authorizer shall assume the existing charter contract for the remainder of the charter term.

(7) The state board of education must establish timelines and a process for taking actions under this section in response to performance deficiencies by an authorizer.

NEW SECTION. Sec. 213. CHARTER APPLICATIONS—CONTENT.

(1)(a) Each authorizer must annually issue and broadly publicize a request for proposals for charter school applicants by the date established by the state board of education under section 214 of this act.

(b) Each authorizer's request for proposals must:

(i) Present the authorizer's strategic vision for chartering, including a clear statement of any preferences the authorizer wishes to grant to applications that employ proven methods for educating at-risk students or students with special needs;

(ii) Include or otherwise direct applicants to the performance framework that the authorizer has developed for charter school oversight and evaluation in accordance with section 217 of this act;

(iii) Provide the criteria that will guide the authorizer's decision to approve or deny a charter application; and

(iv) State clear, appropriately detailed questions as well as guidelines concerning the format and content essential for applicants to demonstrate the capacities necessary to establish and operate a successful charter school.

(2) A charter school application must provide or describe thoroughly all of the following elements of the proposed school plan:

(a) An executive summary;

(b) The mission and vision of the proposed charter school, including identification of the targeted student population and the community the school hopes to serve;

(c) The location or geographic area proposed for the school and the school district within which the school will be located;

(d) The grades to be served each year for the full term of the charter contract;

(e) Minimum, planned, and maximum enrollment per grade per year for the term of the charter contract;

(f) Evidence of need and parent and community support for the proposed charter school;

(g) Background information on the proposed founding governing board members and, if identified, the proposed school leadership and management team;

(h) The school's proposed calendar and sample daily schedule;

(i) A description of the academic program aligned with state standards;

(j) A description of the school's proposed instructional design, including the type of learning environment; class size and structure; curriculum overview; and teaching methods;

(k) Evidence that the educational program is based on proven methods;

(l) The school's plan for using internal and external assessments to measure and report student progress on the performance framework developed by the authorizer in accordance with section 217 of this act;

(m) The school's plans for identifying, successfully serving, and complying with applicable laws and regulations regarding students with disabilities, students who are limited English proficient, students who are struggling academically, and highly capable students;

(n) A description of cocurricular or extracurricular programs and how they will be funded and delivered;

(o) Plans and timelines for student recruitment and enrollment, including targeted plans for recruiting at-risk students and including lottery procedures;

(p) The school's student discipline policies, including for special education students;

(q) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;

(r) A clear description of the roles and responsibilities for the governing board, the school's leadership and management team, and any other entities shown in the organization chart;

(s) A staffing plan for the school's first year and for the term of the charter;

(t) Plans for recruiting and developing school leadership and staff;

(u) The school's leadership and teacher employment policies, including performance evaluation plans;

(v) Proposed governing bylaws;

(w) An explanation of proposed partnership agreement, if any, between a charter school and its school district focused on facilities, budgets, taking best practices to scale, and other items;

(x) Explanations of any other partnerships or contractual relationships central to the school's operations or mission;

(y) Plans for providing transportation, food service, and all other significant operational or ancillary services;

(z) Opportunities and expectations for parent involvement;

(aa) A detailed school start-up plan, identifying tasks, timelines, and responsible individuals;

(bb) A description of the school's financial plan and policies, including financial controls and audit requirements;

(cc) A description of the insurance coverage the school will obtain;

(dd) Start-up and five-year cash flow projections and budgets with clearly stated assumptions;

(ee) Evidence of anticipated fundraising contributions, if claimed in the application; and

(ff) A sound facilities plan, including backup or contingency plans if appropriate.

(3) In the case of an application to establish a conversion charter school, the applicant must also demonstrate support for the proposed conversion by a petition signed by a majority of teachers assigned to the school or a petition signed by a majority of parents of students in the school.

(4) In the case of an application where the proposed charter school intends to contract with a nonprofit education service provider for substantial educational services, management services, or both, the applicant must:

(a) Provide evidence of the nonprofit education service provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions if applicable;

(b) Provide a term sheet setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and

the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and

(c) Disclose and explain any existing or potential conflicts of interest between the charter school board and proposed service provider or any affiliated business entities.

(5) In the case of an application from an applicant that operates one or more schools in any state or nation, the applicant must provide evidence of past performance, including evidence of the applicant's success in serving at-risk students, and capacity for growth.

(6) Applicants may submit a proposal for a particular public charter school to no more than one authorizer at a time.

NEW SECTION. Sec. 214. CHARTER APPLICATIONS—DECISION PROCESS. (1) The state board of education must establish an annual statewide timeline for charter application submission and approval or denial, which must be followed by all authorizers.

(2) In reviewing and evaluating charter applications, authorizers shall employ procedures, practices, and criteria consistent with nationally recognized principles and standards for quality charter authorizing. Authorizers shall give preference to applications for charter schools that are designed to enroll and serve at-risk student populations: PROVIDED, That nothing in this chapter may be construed as intended to limit the establishment of charter schools to those that serve a substantial portion of at-risk students or to in any manner restrict, limit, or discourage the establishment of charter schools that enroll and serve other pupil populations under a nonexclusive, nondiscriminatory admissions policy. The application review process must include thorough evaluation of each application, an in-person interview with the applicant group, and an opportunity in a public forum including, without limitation, parents, community members, local residents, and school district board members and staff, to learn about and provide input on each application.

(3) In deciding whether to approve an application, authorizers must:

(a) Grant charters only to applicants that have demonstrated competence in each element of the authorizer's published approval criteria and are likely to open and operate a successful public charter school;

(b) Base decisions on documented evidence collected through the application review process;

(c) Follow charter-granting policies and practices that are transparent and based on merit; and

(d) Avoid any conflicts of interest whether real or apparent.

(4) An approval decision may include, if appropriate, reasonable conditions that the charter applicant must meet before a charter contract may be executed.

(5) For any denial of an application, the authorizer shall clearly state in writing its reasons for denial. A denied applicant may subsequently reapply to that authorizer or apply to another authorizer in the state.

NEW SECTION. Sec. 215. NUMBER OF CHARTER SCHOOLS. (1) A maximum of forty public charter schools may be established under this chapter,

over a five-year period. No more than eight charter schools may be established in any single year during the five-year period, except that if in any single year fewer than eight charter schools are established, then additional charter schools equal in number to the difference between the number established in that year and eight may be established in subsequent years during the five-year period.

(2) To ensure compliance with the limits for establishing new charter schools, certification from the state board of education must be obtained before final authorization of a charter school. Within ten days of taking action to approve or deny an application under section 214 of this act, an authorizer must submit a report of the action to the applicant and to the state board of education, which must include a copy of the authorizer's resolution setting forth the action taken, the reasons for the decision, and assurances of compliance with the procedural requirements and application elements under sections 213 and 214 of this act. The authorizer must also indicate whether the charter school is designed to enroll and serve at-risk student populations. The state board of education must establish, for each year in which charter schools may be authorized as part of the timeline to be established pursuant to section 214 of this act, the last date by which the authorizer must submit the report. The state board of education must send notice of the date to each authorizer no later than six months before the date.

(3) Upon the receipt of notice from an authorizer that a charter school has been approved, the state board of education shall certify whether the approval is in compliance with the limits on the maximum number of charters allowed under subsection (1) of this section. If the board receives simultaneous notification of approved charters that exceed the annual allowable limits in subsection (1) of this section, the board must select approved charters for implementation through a lottery process, and must assign implementation dates accordingly.

(4) The state board of education must notify authorizers when the maximum allowable number of charter schools has been reached.

NEW SECTION. Sec. 216. CHARTER CONTRACTS. (1) The purposes of the charter application submitted under section 213 of this act are to present the proposed charter school's academic and operational vision and plans and to demonstrate and provide the authorizer a clear basis for 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 by which, fundamentally, the public charter school agrees to provide educational services that at a minimum meet basic education standards in return for an allocation of public funds to be used for such purpose all as set forth in this and other applicable statutes and in the charter contract. The charter contract must clearly set forth the academic and operational performance expectations and measures by which the charter school will be judged 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) The charter contract must be signed by the president of the school district board of directors if the school district board of directors is the authorizer or the chair of the commission if the commission is the authorizer and by 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 extension depending on the school's circumstances.

(6) Authorizers may establish reasonable preopening requirements or conditions to monitor the start-up progress of newly approved charter schools and ensure that they are prepared to open smoothly on the date agreed, and to 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.

NEW SECTION. Sec. 217. CHARTER CONTRACTS—PERFORMANCE FRAMEWORK. (1) The performance provisions within a charter contract must be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide an authorizer's evaluations of each charter school.

(2) At a minimum, the performance framework must include indicators, measures, and metrics for:

- (a) Student academic proficiency;
- (b) Student academic growth;
- (c) Achievement gaps in both proficiency and growth between major student subgroups;
- (d) Attendance;
- (e) Recurrent enrollment from year to year;
- (f) Graduation rates and postsecondary readiness, for high schools;
- (g) Financial performance and sustainability; and
- (h) Board performance and stewardship, including compliance with all applicable laws, rules, and terms of the charter contract.

(3) Annual performance targets must be set by each charter school in conjunction with its authorizer and must be designed to help each school meet applicable federal, state, and authorizer expectations.

(4) The authorizer and charter school may also include additional rigorous, valid, and reliable indicators in the performance framework to augment external evaluations of the charter school's performance.

(5) The performance framework must require the disaggregation of all student performance data by major student subgroups, including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status.

(6) Multiple schools operating under a single charter contract or overseen by a single charter school board must report their performance as separate schools, and each school shall be held independently accountable for its performance.

NEW SECTION. Sec. 218. CHARTER CONTRACTS—OVERSIGHT.

(1) Each authorizer must continually monitor the performance and legal compliance of the charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the performance framework in the charter contract.

(2) An authorizer may conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to charter schools.

(3) In the event that a charter school's performance or legal compliance appears unsatisfactory, the authorizer must promptly notify the school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation in which case the revocation procedures under section 220 of this act apply.

(4) An authorizer may take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. Such actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified time frame.

NEW SECTION. Sec. 219. CHARTER CONTRACTS—RENEWAL.

(1) A charter contract may be renewed by the authorizer, at the request of the charter school, for successive five-year terms, although the authorizer may vary the term based on the performance, demonstrated capacities, and particular circumstances of a charter school and may grant renewal with specific conditions for necessary improvements to a charter school.

(2) No later than six months before the expiration of a charter contract, the authorizer must issue a performance report and charter contract renewal application guidance to that charter school. The performance report must summarize the charter school's performance record to date based on the data required by the charter contract, and must provide notice of any weaknesses or concerns perceived by the authorizer concerning the charter school that may jeopardize its position in seeking renewal if not timely rectified. The charter school has thirty days to respond to the performance report and submit any corrections or clarifications for the report.

(3) The renewal application guidance must, at a minimum, provide an opportunity for the charter school to:

- (a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter contract renewal;
 - (b) Describe improvements undertaken or planned for the school; and
 - (c) Detail the school's plans for the next charter contract term.
- (4) The renewal application guidance must include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the performance framework set forth in the charter contract.
- (5) In making charter renewal decisions, an authorizer must:
- (a) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;
 - (b) Ensure that data used in making renewal decisions are available to the school and the public; and
 - (c) Provide a public report summarizing the evidence basis for its decision.

NEW SECTION. Sec. 220. CHARTER CONTRACTS—NONRENEWAL OR REVOCATION. (1) A charter contract may be revoked at any time or not renewed if the authorizer determines that the charter school did any of the following or otherwise failed to comply with the provisions of this chapter:

- (a) Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under this chapter or the charter contract;
- (b) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter contract;
- (c) Failed to meet generally accepted standards of fiscal management; or
- (d) Substantially violated any material provision of law from which the charter school is not exempt.

(2) A charter contract may not be renewed if, at the time of the renewal application, the charter school's performance falls in the bottom quartile of schools on the accountability index developed by the state board of education under RCW 28A.657.110, unless the charter school demonstrates exceptional circumstances that the authorizer finds justifiable.

- (3) Each authorizer must develop revocation and nonrenewal processes that:
- (a) Provide the charter school board with a timely notification of the prospect of and reasons for revocation or nonrenewal;
 - (b) Allow the charter school board a reasonable amount of time in which to prepare a response;
 - (c) Provide the charter school board with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at a recorded public proceeding held for that purpose;
 - (d) Allow the charter school board to be represented by counsel and to call witnesses on its behalf; and
 - (e) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter school board.

(4) If an authorizer revokes or does not renew a charter, the authorizer must clearly state in a resolution the reasons for the revocation or nonrenewal.

(5) Within ten days of taking action to renew, not renew, or revoke a charter contract, an authorizer must submit a report of the action to the applicant and to the state board of education, which must include a copy of the authorizer's

resolution setting forth the action taken, the reasons for the decision, and assurances of compliance with the procedural requirements established by the authorizer under this section.

NEW SECTION. Sec. 221. CHARTER SCHOOL TERMINATION OR DISSOLUTION. (1) Before making a decision to not renew or to revoke a charter contract, authorizers must develop a charter school termination protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, as necessary, and proper disposition of public school funds, property, and assets. The protocol must specify tasks, timelines, and responsible parties, including delineating the respective duties of the charter school and the authorizer.

(2) In the event that the nonprofit corporation applicant of a charter school should dissolve for any reason including, without limitation, because of the termination of the charter contract, the public school funds of the charter school that have been provided pursuant to section 222 of this act must be returned to the state or local account from which the public funds originated. If the charter school has comingled the funds, the funds must be returned in proportion to the proportion of those funds received by the charter school from the public accounts in the last year preceding the dissolution. The dissolution of an applicant nonprofit corporation shall otherwise proceed as provided by law.

(3) A charter contract may not be transferred from one authorizer to another or from one charter school applicant to another before the expiration of the charter contract term except by petition to the state board of education by the charter school or its authorizer. The state board of education must review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the charter school's students.

NEW SECTION. Sec. 222. FUNDING. (1) Charter schools must report student enrollment in the same manner and based on the same definitions of enrolled students and annual average full-time equivalent enrollment as other public schools. Charter schools must comply with applicable reporting requirements to receive state or federal funding that is allocated based on student characteristics.

(2) According to the schedule established under RCW 28A.510.250, the superintendent of public instruction shall allocate funding for a charter school including general apportionment, special education, categorical, and other nonbasic education moneys. Allocations must be based on the statewide average staff mix ratio of all noncharter public schools from the prior school year and the school's actual full-time equivalent enrollment. Categorical funding must be allocated to a charter school based on the same funding criteria used for noncharter public schools and the funds must be expended as provided in the charter contract. A charter school is eligible to apply for state grants on the same basis as a school district.

(3) Allocations for pupil transportation must be calculated on a per student basis based on the allocation for the previous school year to the school district in which the charter school is located. A charter school may enter into a contract with a school district or other public or private entity to provide transportation for the students of the school.

(4) Amounts payable to a charter school under this section in the school's first year of operation must be based on the projections of first-year student enrollment established in the charter contract. The office of the superintendent of public instruction must reconcile the amounts paid in the first year of operation to the amounts that would have been paid based on actual student enrollment and make adjustments to the charter school's allocations over the course of the second year of operation.

(5) For charter schools authorized by a school district board of directors, allocations to a charter school that are included in RCW 84.52.0531(3) (a) through (c) shall be included in the levy planning, budgets, and funding distribution in the same manner as other public schools in the district.

(6) Conversion charter schools are eligible for local levy moneys approved by the voters before the conversion start-up date of the school as determined by the authorizer, and the school district must allocate levy moneys to a conversion charter school.

(7) New charter schools are not eligible for local levy moneys approved by the voters before the start-up date of the school unless the local school district is the authorizer.

(8) For levies submitted to voters after the start-up date of a charter school authorized under this chapter, the charter school must be included in levy planning, budgets, and funding distribution in the same manner as other public schools in the district.

(9) Any moneys received by a charter school from any source and remaining in the school's accounts at the end of any budget year shall remain in the school's accounts for use by the school during subsequent budget years.

NEW SECTION. Sec. 223. FACILITIES. (1) Charter schools are eligible for state matching funds for common school construction.

(2) A charter school has a right of first refusal to purchase or lease at or below fair market value a closed public school facility or property or unused portions of a public school facility or property located in a school district from which it draws its students if the school district decides to sell or lease the public school facility or property pursuant to RCW 28A.335.040 or 28A.335.120.

(3) A charter school may negotiate and contract with a school district, the governing body of a public college or university, or any other public or private entity for the use of a facility for a school building at or below fair market rent.

(4) Public libraries, community service organizations, museums, performing arts venues, theaters, and public or private colleges and universities may provide space to charter schools within their facilities under their preexisting zoning and land use designations.

(5) A conversion charter school as part of the consideration for providing educational services under the charter contract may continue to use its existing facility without paying rent to the school district that owns the facility. The district remains responsible for major repairs and safety upgrades that may be required for the continued use of the facility as a public school. The charter school is responsible for routine maintenance of the facility including, but not limited to, cleaning, painting, gardening, and landscaping. The charter contract of a conversion charter school using existing facilities that are owned by its school district must include reasonable and customary terms regarding the use of the existing facility that are binding upon the school district.

NEW SECTION. Sec. 224. YEARS OF SERVICE. Years of service in a charter school by certificated instructional staff shall be included in the years of service calculation for purposes of the statewide salary allocation schedule under RCW 28A.150.410. This section does not require a charter school to pay a particular salary to its staff while the staff is employed by the charter school.

NEW SECTION. Sec. 225. ANNUAL REPORTS. (1) By December 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 an annual report on the state's charter schools for 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 board. 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 noncharter 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 public charter schools.

PART III GENERAL PROVISIONS

Sec. 301. RCW 28A.150.010 and 1969 ex.s. c 223 s 28A.01.055 are each amended to read as follows:

Public schools ((shall)) means the common schools as referred to in Article IX of the state Constitution, including charter schools established under chapter 28A.— RCW (the new chapter created in section 401 of this act), and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense.

Sec. 302. RCW 28A.315.005 and 1999 c 315 s 1 are each amended to read as follows:

(1) Under the constitutional framework and the laws of the state of Washington, the governance structure for the state's public common school system is comprised of the following bodies: The legislature, the governor, the superintendent of public instruction, the state board of education, the Washington charter school commission, the educational service district boards of directors, and local school district boards of directors. The respective policy and administrative roles of each body are determined by the state Constitution and statutes.

(2) Local school districts are political subdivisions of the state and the organization of such districts, including the powers, duties, and boundaries thereof, may be altered or abolished by laws of the state of Washington.

NEW SECTION. Sec. 303. A new section is added to chapter 41.32 RCW to read as follows:

This section designates charter schools established under chapter 28A.—RCW (the new chapter created in section 401 of this act) as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code.

NEW SECTION. Sec. 304. A new section is added to chapter 41.35 RCW to read as follows:

This section designates charter schools established under chapter 28A.—RCW (the new chapter created in section 401 of this act) as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code.

NEW SECTION. Sec. 305. A new section is added to chapter 41.40 RCW to read as follows:

This section designates charter schools established under chapter 28A.—RCW (the new chapter created in section 401 of this act) as employers and charter school employees as members, and applies only if the department of retirement systems receives determinations from the internal revenue service and the United States department of labor that participation does not jeopardize the status of these retirement systems as governmental plans under the federal employees' retirement income security act and the internal revenue code.

Sec. 306. RCW 41.05.011 and 2012 c 87 s 22 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) "Board" means the public employees' benefits board established under RCW 41.05.055.

(3) "Dependent care assistance program" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

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

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6) "Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g); ~~((and))~~ (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (g) and (n); and (f) employees of a charter school established under chapter 28A.— RCW (the new chapter created in section 401 of this act). "Employee" does not include: Adult family homeowners; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(7) "Employer" means the state of Washington.

(8) "Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; and a tribal government covered by this chapter.

(9) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(10) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(11) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(12) "Medical flexible spending arrangement" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(13) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(14) "Plan year" means the time period established by the authority.

(15) "Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(16) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district ((~~or~~)), educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district ((~~or~~)), educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(17) "Salary" means a state employee's monthly salary or wages.

(18) "Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(19) "Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(20) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(21) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(22) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

NEW SECTION. Sec. 307. A new section is added to chapter 41.56 RCW to read as follows:

In addition to the entities listed in RCW 41.56.020, this chapter applies to any charter school established under chapter 28A.— RCW (the new chapter created in section 401 of this act). Any bargaining unit or units established at the charter school must be limited to employees working in the charter school and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education. Any charter school established under chapter 28A.— RCW (the new chapter created in section 401 of this act) is a separate employer from any school district, including the school district in which it is located.

NEW SECTION. Sec. 308. A new section is added to chapter 41.59 RCW to read as follows:

This chapter applies to any charter school established under chapter 28A.— RCW (the new chapter created in section 401 of this act). Any bargaining unit or units established at the charter school must be limited to employees working in the charter school and must be separate from other bargaining units in school districts, educational service districts, or institutions of higher education. Any charter school established under chapter 28A.— RCW (the new chapter created in section 401 of this act) is a separate employer from any school district, including the school district in which it is located.

**PART IV
MISCELLANEOUS PROVISIONS**

NEW SECTION. Sec. 401. Sections 101 and 201 through 225 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 402. 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.

Originally filed in Office of Secretary of State May 31, 2012.

Approved by the People of the State of Washington in the General Election on November 6, 2012.

CHAPTER 3

[Initiative 502]

MARIJUANA

AN ACT Relating to marijuana; amending RCW 69.50.101, 69.50.401, 69.50.4013, 69.50.412, 69.50.4121, 69.50.500, 46.20.308, 46.61.502, 46.61.504, 46.61.50571, and 46.61.506; reenacting and amending RCW 69.50.505, 46.20.3101, and 46.61.503; adding a new section to chapter 46.04 RCW; adding new sections to chapter 69.50 RCW; creating new sections; and prescribing penalties.

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

PART I INTENT

NEW SECTION. Sec. 1. The people intend to stop treating adult marijuana use as a crime and try a new approach that:

- (1) Allows law enforcement resources to be focused on violent and property crimes;
- (2) Generates new state and local tax revenue for education, health care, research, and substance abuse prevention; and
- (3) Takes marijuana out of the hands of illegal drug organizations and brings it under a tightly regulated, state-licensed system similar to that for controlling hard alcohol.

This measure authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one years of age and older, and add a new threshold for driving under the influence of marijuana.

PART II DEFINITIONS

Sec. 2. RCW 69.50.101 and 2010 c 177 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(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 state board of pharmacy.

(d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or board rules.

(e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Immediate precursor" means a substance:

(1) that the state board of pharmacy 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.

(o) "Isomer" means an optical isomer, but in RCW 69.50.101(((+))) (x)(5), 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.

(p) "Lot" means a definite quantity of marijuana, 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.

(q) "Lot number" shall 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, useable marijuana, or marijuana-infused product.

(r) "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.

~~((q))~~ (s) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

~~((r))~~ (t) "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

(u) "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(v) "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

(w) "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

(x) "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).

((~~+~~)) (y) "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.

((~~+~~)) (z) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

((~~+~~)) (aa) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

((~~+~~)) (bb) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

((~~+~~)) (cc) "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, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

~~((*)~~) (dd) "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.

~~((*)~~) (ee) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

~~((*)~~) (ff) "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

(gg) "Secretary" means the secretary of health or the secretary's designee.

~~((aa))~~ (hh) "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.

~~((bb))~~ (ii) "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.

(jj) "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.

~~((ee))~~ (kk) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

(ll) "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a Schedule III-V controlled substance between an authorized practitioner and a pharmacy or the transfer of prescription information for a controlled substance from one pharmacy to another pharmacy.

NEW SECTION. Sec. 3. A new section is added to chapter 46.04 RCW to read as follows:

"THC concentration" means nanograms of delta-9 tetrahydrocannabinol per milliliter of a person's whole blood. THC concentration does not include measurement of the metabolite THC-COOH, also known as carboxy-THC.

PART III LICENSING AND REGULATION OF MARIJUANA PRODUCERS, PROCESSORS, AND RETAILERS

NEW SECTION. Sec. 4. (1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers, regulated by the state liquor control board and subject to

annual renewal. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this act and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label useable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers, regulated by the state liquor control board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, and marijuana-infused products in accordance with the provisions of this act and the rules adopted to implement and enforce it, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3) There shall be a marijuana retailer's license to sell useable marijuana and marijuana-infused products at retail in retail outlets, regulated by the state liquor control board and subject to annual renewal. The possession, delivery, distribution, and sale of useable marijuana and marijuana-infused products in accordance with the provisions of this act and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell useable marijuana and marijuana-infused products.

NEW SECTION. Sec. 5. Neither a licensed marijuana producer nor a licensed marijuana processor shall have a direct or indirect financial interest in a licensed marijuana retailer.

NEW SECTION. Sec. 6. (1) For the purpose of considering any application for a license to produce, process, or sell marijuana, or for the renewal of a license to produce, process, or sell marijuana, the state liquor control board

may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor control board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor control board and a criminal history record information check. The state liquor control board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to these cases. Subject to the provisions of this section, the state liquor control board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (9) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor control board to any staff member the board designates in writing. Conditions for granting this authority shall be adopted by rule. No license of any kind may be issued to:

(a) A person under the age of twenty-one years;

(b) A person doing business as a sole proprietor who has not lawfully resided in the state for at least three months prior to applying to receive a license;

(c) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(d) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The state liquor control board may, in its discretion, subject to the provisions of section 7 of this act, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, or selling marijuana, useable marijuana, or marijuana-infused products thereunder shall be suspended or terminated, as the case may be.

(b) The state liquor control board shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the state liquor control board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The state liquor control board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the

production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor control board may adopt.

(d) Witnesses shall be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the state liquor control board or a subpoena issued by the state liquor control board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the state liquor control board. Where the license has been suspended only, the state liquor control board shall return the license to the licensee at the expiration or termination of the period of suspension. The state liquor control board shall notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this act shall be subject to all conditions and restrictions imposed by this act or by rules adopted by the state liquor control board to implement and enforce this act. All conditions and restrictions imposed by the state liquor control board in the issuance of an individual license shall be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee shall employ any person under the age of twenty-one years.

(7)(a) Before the state liquor control board issues a new or renewed license to an applicant it shall give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the state liquor control board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor control board may extend the time period for submitting written objections.

(c) The written objections shall include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor control board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor control board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, state liquor control board representatives shall present and defend the state liquor control board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor control board shall send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8) The state liquor control board shall not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(9) In determining whether to grant or deny a license or renewal of any license, the state liquor control board shall give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

NEW SECTION. Sec. 7. The action, order, or decision of the state liquor control board as to any denial of an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any license to produce, process, or sell marijuana, shall be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(1) An opportunity for a hearing may be provided to an applicant for the reissuance of a license prior to the disposition of the application, and if no opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, except as provided in subsection (4) of this section, prior to the suspension of any license.

(3) No hearing shall be required until demanded by the applicant or licensee.

(4) The state liquor control board may summarily suspend a license for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year from the first day of the initial summary suspension in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty-day period due to actions by the licensee. The state liquor control board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the state liquor control board.

NEW SECTION. Sec. 8. (1) If the state liquor control board approves, a license to produce, process, or sell marijuana may be transferred, without charge, to the surviving spouse or domestic partner of a deceased licensee if the license was issued in the names of one or both of the parties. For the purpose of considering the qualifications of the surviving party to receive a marijuana producer's, marijuana processor's, or marijuana retailer's license, the state liquor control board may require a criminal history record information check. The state liquor control board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation.

(2) The proposed sale of more than ten percent of the outstanding or issued stock of a corporation licensed under this act, or any proposed change in the officers of such a corporation, must be reported to the state liquor control board, and state liquor control board approval must be obtained before the changes are made. A fee of seventy-five dollars will be charged for the processing of the change of stock ownership or corporate officers.

NEW SECTION. Sec. 9. For the purpose of carrying into effect the provisions of this act according to their true intent or of supplying any deficiency therein, the state liquor control board may adopt rules not inconsistent with the spirit of this act as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the state liquor control board is empowered to adopt rules regarding the following:

(1) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises;

(2) The books and records to be created and maintained by licensees, the reports to be made thereon to the state liquor control board, and inspection of the books and records;

(3) Methods of producing, processing, and packaging marijuana, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(4) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

(5) Screening, hiring, training, and supervising employees of licensees;

(6) Retail outlet locations and hours of operation;

(7) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, and marijuana-infused products;

(8) Forms to be used for purposes of this act or the rules adopted to implement and enforce it, the terms and conditions to be contained in licenses issued under this act, and the qualifications for receiving a license issued under this act, including a criminal history record information check. The state liquor control board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(9) Application, reinstatement, and renewal fees for licenses issued under this act, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this act;

(10) The manner of giving and serving notices required by this act or rules adopted to implement or enforce it;

(11) Times and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, useable marijuana, and marijuana-infused products within the state;

(12) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this act or the rules adopted to implement and enforce it: PROVIDED, That nothing in this act shall be construed as authorizing the state liquor control board to seize, confiscate, destroy, or donate to law enforcement marijuana, useable marijuana, or marijuana-infused products produced, processed, sold, offered for sale, or possessed in compliance with the Washington state medical use of cannabis act, chapter 69.51A RCW.

NEW SECTION. Sec. 10. The state liquor control board, subject to the provisions of this act, must adopt rules by December 1, 2013, that establish the procedures and criteria necessary to implement the following:

(1) Licensing of marijuana producers, marijuana processors, and marijuana retailers, including prescribing forms and establishing application, reinstatement, and renewal fees;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;
(b) Security and safety issues; and
(c) The provision of adequate access to licensed sources of useable marijuana and marijuana-infused products to discourage purchases from the illegal market;

(3) Determining the maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of marijuana, useable marijuana, and marijuana-infused products a marijuana processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of useable marijuana and marijuana-infused products a marijuana retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by subsections (3) through (5) of this section, the state liquor control board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of marijuana, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain marijuana, useable marijuana, and marijuana-infused products, and their labeling requirements, to include but not be limited to:

(a) The business or trade name and Washington state unified business identifier number of the licensees that grew, processed, and sold the marijuana, useable marijuana, or marijuana-infused product;

(b) Lot numbers of the marijuana, useable marijuana, or marijuana-infused product;

(c) THC concentration of the marijuana, useable marijuana, or marijuana-infused product;

(d) Medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(e) Language required by RCW 69.04.480;

(8) In consultation with the department of agriculture, establishing classes of marijuana, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, or other qualitative measurements deemed appropriate by the state liquor control board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of marijuana, useable marijuana, and marijuana-infused products that are not inconsistent with the provisions of this act, taking into consideration:

(a) Federal laws relating to marijuana that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising; and

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use in the advertising;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, useable marijuana, and marijuana-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the state liquor control board, and prescribing methods of producing, processing, and packaging marijuana, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all marijuana, useable marijuana, and marijuana-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this act or the rules of the state liquor control board.

NEW SECTION. Sec. 11. (1) On a schedule determined by the state liquor control board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the state liquor control board, for inspection and testing to certify compliance with standards adopted by the state liquor control board. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee.

(2) Licensees must submit the results of this inspection and testing to the state liquor control board on a form developed by the state liquor control board.

(3) If a representative sample inspected and tested under this section does not meet the applicable standards adopted by the state liquor control board, the entire lot from which the sample was taken must be destroyed.

NEW SECTION. Sec. 12. Except as provided by chapter 42.52 RCW, no member of the state liquor control board and no employee of the state liquor control board shall have any interest, directly or indirectly, in the producing, processing, or sale of marijuana, useable marijuana, or marijuana-infused products, or derive any profit or remuneration from the sale of marijuana, useable marijuana, or marijuana-infused products other than the salary or wages payable to him or her in respect of his or her office or position, and shall receive no gratuity from any person in connection with the business.

NEW SECTION. Sec. 13. There may be licensed, in no greater number in each of the counties of the state than as the state liquor control board shall deem advisable, retail outlets established for the purpose of making useable marijuana and marijuana-infused products available for sale to adults aged twenty-one and over. Retail sale of useable marijuana and marijuana-infused products in accordance with the provisions of this act and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer or retail outlet employee, shall not be a criminal or civil offense under Washington state law.

NEW SECTION. Sec. 14. (1) Retail outlets shall sell no products or services other than useable marijuana, marijuana-infused products, or

paraphernalia intended for the storage or use of useable marijuana or marijuana-infused products.

(2) Licensed marijuana retailers shall not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet.

(3) Licensed marijuana retailers shall not display any signage in a window, on a door, or on the outside of the premises of a retail outlet that is visible to the general public from a public right-of-way, other than a single sign no larger than one thousand six hundred square inches identifying the retail outlet by the licensee's business or trade name.

(4) Licensed marijuana retailers shall not display useable marijuana or marijuana-infused products in a manner that is visible to the general public from a public right-of-way.

(5) No licensed marijuana retailer or employee of a retail outlet shall open or consume, or allow to be opened or consumed, any useable marijuana or marijuana-infused product on the outlet premises.

(6) The state liquor control board shall fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana fund created under section 26 of this act.

NEW SECTION. Sec. 15. The following acts, when performed by a validly licensed marijuana retailer or employee of a validly licensed retail outlet in compliance with rules adopted by the state liquor control board to implement and enforce this act, shall not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of useable marijuana or marijuana-infused products that have been properly packaged and labeled from a marijuana processor validly licensed under this act;

(2) Possession of quantities of useable marijuana or marijuana-infused products that do not exceed the maximum amounts established by the state liquor control board under section 10(5) of this act; and

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

(a) One ounce of useable marijuana;

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

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

NEW SECTION. Sec. 16. The following acts, when performed by a validly licensed marijuana processor or employee of a validly licensed marijuana processor in compliance with rules adopted by the state liquor control board to implement and enforce this act, shall not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana that has been properly packaged and labeled from a marijuana producer validly licensed under this act;

(2) Possession, processing, packaging, and labeling of quantities of marijuana, useable marijuana, and marijuana-infused products that do not exceed the maximum amounts established by the state liquor control board under section 10(4) of this act; and

(3) Delivery, distribution, and sale of useable marijuana or marijuana-infused products to a marijuana retailer validly licensed under this act.

NEW SECTION. Sec. 17. The following acts, when performed by a validly licensed marijuana producer or employee of a validly licensed marijuana producer in compliance with rules adopted by the state liquor control board to implement and enforce this act, shall not constitute criminal or civil offenses under Washington state law:

(1) Production or possession of quantities of marijuana that do not exceed the maximum amounts established by the state liquor control board under section 10(3) of this act; and

(2) Delivery, distribution, and sale of marijuana to a marijuana processor or another marijuana producer validly licensed under this act.

NEW SECTION. Sec. 18. (1) No licensed marijuana producer, processor, or retailer shall place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property.

(2) Merchandising within a retail outlet is not advertising for the purposes of this section.

(3) This section does not apply to a noncommercial message.

(4) The state liquor control board shall fine a licensee one thousand dollars for each violation of subsection (1) of this section. Fines collected under this subsection must be deposited into the dedicated marijuana fund created under section 26 of this act.

Sec. 19. RCW 69.50.401 and 2005 c 218 s 1 are each amended to read as follows:

(1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime

involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(c) Any other controlled substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A substance classified in Schedule IV, except flunitrazepam, including its salts, isomers, and salts of isomers, is guilty of a class C felony punishable according to chapter 9A.20 RCW; or

(e) A substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) The production, manufacture, processing, packaging, delivery, distribution, sale, or possession of marijuana in compliance with the terms set forth in section 15, 16, or 17 of this act shall not constitute a violation of this section, this chapter, or any other provision of Washington state law.

Sec. 20. RCW 69.50.4013 and 2003 c 53 s 334 are each amended to read as follows:

(1) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3) The possession, by a person twenty-one years of age or older, of useable marijuana or marijuana-infused products in amounts that do not exceed those set forth in section 15(3) of this act is not a violation of this section, this chapter, or any other provision of Washington state law.

NEW SECTION. Sec. 21. It is unlawful to open a package containing marijuana, useable marijuana, or a marijuana-infused product, or consume marijuana, useable marijuana, or a marijuana-infused product, in view of the general public. A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.

Sec. 22. RCW 69.50.412 and 2002 c 213 s 1 are each amended to read as follows:

(1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing bloodborne diseases.

Sec. 23. RCW 69.50.4121 and 2002 c 213 s 2 are each amended to read as follows:

(1) Every person who sells or gives, or permits to be sold or given to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than marijuana. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing ((marihuana), cocaine((, hashish, or hashish oil))) into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) ((Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

~~(f)~~) Miniature cocaine spoons and cocaine vials;

~~((g))~~ (f) Chamber pipes;

~~((h))~~ (g) Carburetor pipes;

~~((i))~~ (h) Electric pipes;

~~((j))~~ (i) Air-driven pipes;

~~((k) Chillums;~~

~~(l) Bongs;))~~ and

~~((m))~~ (j) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits legal distribution of injection syringe equipment through public health and community based HIV prevention programs, and pharmacies.

Sec. 24. RCW 69.50.500 and 1989 1st ex.s. c 9 s 437 are each amended to read as follows:

(a) It is hereby made the duty of the state board of pharmacy, the department, the state liquor control board, and their officers, agents, inspectors and representatives, and all law enforcement officers within the state, and of all prosecuting attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and all other states, relating to controlled substances as defined in this chapter.

(b) Employees of the department of health, who are so designated by the board as enforcement officers are declared to be peace officers and shall be vested with police powers to enforce the drug laws of this state, including this chapter.

Sec. 25. RCW 69.50.505 and 2009 c 479 s 46 and 2009 c 364 s 1 are each reenacted and amended to read as follows:

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.4014;

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(f) All drug paraphernalia²¹ other than paraphernalia possessed, sold, or used solely to facilitate marijuana-related activities that are not violations of this chapter;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including

the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell marijuana, or was an employee of a licensed producer, processor, or retailer, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. 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: PROVIDED, That 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;

(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;

(c) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. 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. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall

be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. 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 shall be deemed complete upon mailing within the fifteen day period following 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 items specified in subsection (1)(d), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item 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 any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency 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 notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9)(a) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(11) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(12) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(13) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(14) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(15)(a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if:

((a)) (i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

((b)) (ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

((c)) (A) Only if the funds applied under ((b)) (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

((d)) (B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

((e)) (b) For any claim filed under ((b)) (a)(ii) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(16) The landlord's claim for damages under subsection (15) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7)(b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section.

(17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

PART IV DEDICATED MARIJUANA FUND

NEW SECTION. Sec. 26. (1) There shall be a fund, known as the dedicated marijuana fund, which shall consist of all marijuana excise taxes, license fees, penalties, forfeitures, and all other moneys, income, or revenue received by the state liquor control board from marijuana-related activities. The state treasurer shall be custodian of the fund.

(2) All moneys received by the state liquor control board or any employee thereof from marijuana-related activities shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana fund.

(3) Disbursements from the dedicated marijuana fund shall be on authorization of the state liquor control board or a duly authorized representative thereof.

NEW SECTION. Sec. 27. (1) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of marijuana by a licensed marijuana producer to a licensed marijuana processor or another licensed marijuana producer. This tax is the obligation of the licensed marijuana producer.

(2) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each wholesale sale in this state of useable marijuana or marijuana-infused product by a licensed marijuana processor to a licensed marijuana retailer. This tax is the obligation of the licensed marijuana processor.

(3) There is levied and collected a marijuana excise tax equal to twenty-five percent of the selling price on each retail sale in this state of useable marijuana and marijuana-infused products. This tax is the obligation of the licensed marijuana retailer, is separate and in addition to general state and local sales and

use taxes that apply to retail sales of tangible personal property, and is part of the total retail price to which general state and local sales and use taxes apply.

(4) All revenues collected from the marijuana excise taxes imposed under subsections (1) through (3) of this section shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the dedicated marijuana fund.

(5) The state liquor control board shall regularly review the tax levels established under this section and make recommendations to the legislature as appropriate regarding adjustments that would further the goal of discouraging use while undercutting illegal market prices.

NEW SECTION. Sec. 28. All marijuana excise taxes collected from sales of marijuana, useable marijuana, and marijuana-infused products under section 27 of this act, and the license fees, penalties, and forfeitures derived under this act from marijuana producer, marijuana processor, and marijuana retailer licenses shall every three months be disbursed by the state liquor control board as follows:

(1) One hundred twenty-five thousand dollars to the department of social and health services to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and state liquor control board. The survey shall be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(2) Fifty thousand dollars to the department of social and health services for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in section 30 of this act. This appropriation shall end after production of the final report required by section 30 of this act;

(3) Five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(4) An amount not exceeding one million two hundred fifty thousand dollars to the state liquor control board as is necessary for administration of this act;

(5) Of the funds remaining after the disbursements identified in subsections (1) through (4) of this section:

(a) Fifteen percent to the department of social and health services division of behavioral health and recovery for implementation and maintenance of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance-use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school age students, whether as an

explicit goal of a given program or practice or as a consistently corresponding effect of its implementation; PROVIDED, That:

(i) Of the funds disbursed under (a) of this subsection, at least eighty-five percent must be directed to evidence-based and cost-beneficial programs and practices that produce objectively measurable results; and

(ii) Up to fifteen percent of the funds disbursed under (a) of this subsection may be directed to research-based and emerging best practices or promising practices.

In deciding which programs and practices to fund, the secretary of the department of social and health services shall consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute;

(b) Ten percent to the department of health for the creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

(i) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

(ii) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

(iii) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(c) Six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research;

(d) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(f) Three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW; and

(g) The remainder to the general fund.

NEW SECTION. Sec. 29. The department of social and health services and the department of health shall, by December 1, 2013, adopt rules not inconsistent with the spirit of this act as are deemed necessary or advisable to carry into effect the provisions of section 28 of this act.

NEW SECTION. Sec. 30. (1) The Washington state institute for public policy shall conduct cost-benefit evaluations of the implementation of this act. A preliminary report, and recommendations to appropriate committees of the legislature, shall be made by September 1, 2015, and the first final report with recommendations by September 1, 2017. Subsequent reports shall be due September 1, 2022, and September 1, 2032.

(2) The evaluation of the implementation of this act shall include, but not necessarily be limited to, consideration of the following factors:

(a) Public health, to include but not be limited to:

(i) Health costs associated with marijuana use;

(ii) Health costs associated with criminal prohibition of marijuana, including lack of product safety or quality control regulations and the relegation of marijuana to the same illegal market as potentially more dangerous substances; and

(iii) The impact of increased investment in the research, evaluation, education, prevention and intervention programs, practices, and campaigns identified in section 16 of this act on rates of marijuana-related maladaptive substance use and diagnosis of marijuana-related substance-use disorder, substance abuse, or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders;

(b) Public safety, to include but not be limited to:

(i) Public safety issues relating to marijuana use; and

(ii) Public safety issues relating to criminal prohibition of marijuana;

(c) Youth and adult rates of the following:

(i) Marijuana use;

(ii) Maladaptive use of marijuana; and

(iii) Diagnosis of marijuana-related substance-use disorder, substance abuse, or substance dependence, including primary, secondary, and tertiary choices of substance;

(d) Economic impacts in the private and public sectors, including but not limited to:

(i) Jobs creation;

(ii) Workplace safety;

(iii) Revenues; and

(iv) Taxes generated for state and local budgets;

(e) Criminal justice impacts, to include but not be limited to:

(i) Use of public resources like law enforcement officers and equipment, prosecuting attorneys and public defenders, judges and court staff, the Washington state patrol crime lab and identification and criminal history section, jails and prisons, and misdemeanant and felon supervision officers to enforce state criminal laws regarding marijuana; and

(ii) Short and long-term consequences of involvement in the criminal justice system for persons accused of crimes relating to marijuana, their families, and their communities; and

(f) State and local agency administrative costs and revenues.

PART V
DRIVING UNDER THE INFLUENCE OF MARIJUANA

Sec. 31. RCW 46.20.308 and 2008 c 282 s 2 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration, THC concentration, or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol or THC in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(5). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if:

(i) The driver is age twenty-one or over and the test indicates either that the alcohol concentration of the driver's breath or blood is 0.08 or more(=) or that the THC concentration of the driver's blood is 5.00 or more; or ((#))

(ii) The driver is under age twenty-one and the test indicates either that the alcohol concentration of the driver's breath or blood is 0.02 or more(=) or that the THC concentration of the driver's blood is above 0.00; or ((#))

(iii) The driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more, or the THC concentration of the person's blood is 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood is 0.02 or more, or the THC concentration of the person's blood is above 0.00, if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section and that the person waives the right to a hearing if he or she receives an ignition interlock driver's license;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol or THC concentration in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within twenty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of two hundred dollars as part of the request. If the request is mailed, it must be postmarked within twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required two hundred dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required two hundred dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state

while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person was age twenty-one or over at the time of the arrest, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(9) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs

associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(10)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (7) of this section, other than as a result of a breath or blood test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath or blood test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or

denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Sec. 32. RCW 46.20.3101 and 2004 c 95 s 4 and 2004 c 68 s 3 are each reenacted and amended to read as follows:

Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal within seven years, where there has not been a previous incident within seven years that resulted in administrative action under this section, revocation or denial for one year;

(b) For a second or subsequent refusal within seven years, or for a first refusal where there has been one or more previous incidents within seven years that have resulted in administrative action under this section, revocation or denial for two years or until the person reaches age twenty-one, whichever is longer.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.08 or more, or that the THC concentration of the person's blood was 5.00 or more:

(a) For a first incident within seven years, where there has not been a previous incident within seven years that resulted in administrative action under this section, suspension for ninety days;

(b) For a second or subsequent incident within seven years, revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.02 or more, or that the THC concentration of the person's blood was above 0.00:

(a) For a first incident within seven years, suspension or denial for ninety days;

(b) For a second or subsequent incident within seven years, revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

(4) The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this section for a suspension, revocation, or denial imposed under RCW 46.61.5055 arising out of the same incident.

Sec. 33. RCW 46.61.502 and 2011 c 293 s 2 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor, marijuana, or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

~~((e))~~ (d) While the person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of driving and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)~~((b)-(e))~~ (c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

- (b) The person has ever previously been convicted of:
 - (i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);
 - (ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);
 - (iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or
 - (iv) A violation of this subsection (6) or RCW 46.61.504(6).

Sec. 34. RCW 46.61.503 and 1998 c 213 s 4, 1998 c 207 s 5, and 1998 c 41 s 8 are each reenacted and amended to read as follows:

(1) Notwithstanding any other provision of this title, a person is guilty of driving or being in physical control of a motor vehicle after consuming alcohol or marijuana if the person operates or is in physical control of a motor vehicle within this state and the person:

- (a) Is under the age of twenty-one; and
- (b) Has, within two hours after operating or being in physical control of the motor vehicle, either:

(i) An alcohol concentration of at least 0.02 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(ii) A THC concentration above 0.00 but less than the concentration specified in RCW 46.61.502, as shown by analysis of the person's blood made under RCW 46.61.506.

(2) It is an affirmative defense to a violation of subsection (1) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol or marijuana after the time of driving or being in physical control and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol or THC concentration to be in violation of subsection (1) of this section within two hours after driving or being in physical control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(3) Analyses of blood or breath samples obtained more than two hours after the alleged driving or being in physical control may be used as evidence that within two hours of the alleged driving or being in physical control, a person had an alcohol or THC concentration in violation of subsection (1) of this section.

- (4) A violation of this section is a misdemeanor.

Sec. 35. RCW 46.61.504 and 2011 c 293 s 3 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

- (a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

~~((e))~~ (d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)~~((b)-(c))~~ (c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

- (a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or
- (b) The person has ever previously been convicted of:
- (i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);
 - (ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);
 - (iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or
 - (iv) A violation of this subsection (6) or RCW 46.61.502(6).

Sec. 36. RCW 46.61.50571 and 2000 c 52 s 1 are each amended to read as follows:

(1) A defendant who is charged with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol or marijuana as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, shall be required to appear in person before a judicial officer within one judicial day after the arrest if the defendant is served with a citation or complaint at the time of the arrest. A court may by local court rule waive the requirement for appearance within one judicial day if it provides for the appearance at the earliest practicable day following arrest and establishes the method for identifying that day in the rule.

(2) A defendant who is charged with an offense involving driving while under the influence as defined in RCW 46.61.502, driving under age twenty-one after consuming alcohol or marijuana as defined in RCW 46.61.503, or being in physical control of a vehicle while under the influence as defined in RCW 46.61.504, and who is not served with a citation or complaint at the time of the incident, shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3) At the time of an appearance required by this section, the court shall determine the necessity of imposing conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment.

(4) Appearances required by this section are mandatory and may not be waived.

Sec. 37. RCW 46.61.506 and 2010 c 53 s 1 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the person's alcohol concentration is less than 0.08 or the person's THC concentration is less than 5.00, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(2)(a) The breath analysis of the person's alcohol concentration shall be based upon grams of alcohol per two hundred ten liters of breath.

(b) The blood analysis of the person's THC concentration shall be based upon nanograms per milliliter of whole blood.

(c) The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4)(a) A breath test performed by any instrument approved by the state toxicologist shall be admissible at trial or in an administrative proceeding if the prosecution or department produces prima facie evidence of the following:

(i) The person who performed the test was authorized to perform such test by the state toxicologist;

(ii) The person being tested did not vomit or have anything to eat, drink, or smoke for at least fifteen minutes prior to administration of the test;

(iii) The person being tested did not have any foreign substances, not to include dental work, fixed or removable, in his or her mouth at the beginning of the fifteen-minute observation period;

(iv) Prior to the start of the test, the temperature of any liquid simulator solution utilized as an external standard, as measured by a thermometer approved of by the state toxicologist was thirty-four degrees centigrade plus or minus 0.3 degrees centigrade;

(v) The internal standard test resulted in the message "verified";

(vi) The two breath samples agree to within plus or minus ten percent of their mean to be determined by the method approved by the state toxicologist;

(vii) The result of the test of the liquid simulator solution external standard or dry gas external standard result did lie between .072 to .088 inclusive; and

(viii) All blank tests gave results of .000.

(b) For purposes of this section, "prima facie evidence" is evidence of sufficient circumstances that would support a logical and reasonable inference of the facts sought to be proved. In assessing whether there is sufficient evidence of the foundational facts, the court or administrative tribunal is to assume the truth of the prosecution's or department's evidence and all reasonable inferences from it in a light most favorable to the prosecution or department.

(c) Nothing in this section shall be deemed to prevent the subject of the test from challenging the reliability or accuracy of the test, the reliability or functioning of the instrument, or any maintenance procedures. Such challenges, however, shall not preclude the admissibility of the test once the prosecution or department has made a prima facie showing of the requirements contained in (a) of this subsection. Instead, such challenges may be considered by the trier of fact in determining what weight to give to the test result.

(5) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic or drug content may be performed only by a physician, a registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter 18.88A RCW, a physician assistant as defined in chapter 18.71A RCW, a first responder as defined in chapter 18.73 RCW, an emergency medical technician as defined in chapter 18.73 RCW, a health care assistant as defined in chapter 18.135 RCW, or any technician trained in withdrawing blood. This limitation shall not apply to the taking of breath specimens.

(6) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The test will be admissible if the person establishes the general acceptability of the testing technique or method. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(7) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney.

PART VI CONSTRUCTION

NEW SECTION. Sec. 38. Sections 4 through 18 of this act are each added to chapter 69.50 RCW under the subchapter heading "article III — regulation of manufacture, distribution, and dispensing of controlled substances."

NEW SECTION. Sec. 39. Section 21 of this act is added to chapter 69.50 RCW under the subchapter heading "article IV — offenses and penalties."

NEW SECTION. Sec. 40. Sections 26 through 30 of this act are each added to chapter 69.50 RCW under the subchapter heading "article V — enforcement and administrative provisions."

NEW SECTION. Sec. 41. The code reviser shall prepare a bill for introduction at the next legislative session that corrects references to the sections affected by this act.

Originally filed in Office of Secretary of State July 8, 2011.

Approved by the People of the State of Washington in the General Election on November 6, 2012.

CHAPTER 4

[Senate Bill 5147]

JUVENILES—RUNAWAY YOUTH

AN ACT Relating to juveniles and runaway children; and amending RCW 13.32A.030, 13.32A.082, 13.32A.085, and 43.43.510.

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

Sec. 1. RCW 13.32A.030 and 2010 c 289 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) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances (~~(which)~~) that indicate (~~(that)~~) the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center, or his or her designee.

(3) "At-risk youth" means a juvenile:

(a) Who is absent from home for at least seventy-two consecutive hours without consent of his or her parent;

(b) Who is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any other person; or

(c) Who has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

(4) "Child," "juvenile," (~~(and)~~) "youth," 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 (~~(utilize)~~) 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 (~~(who)~~) that has the legal right to (~~(the)~~) custody of the child.

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

(10) "Extended family member" means an adult who is a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the

child has a relationship and is comfortable, and who is willing and available to care for the child.

(11) "Guardian" means ~~((that))~~ 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 ~~((legal))~~ custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under chapter 13.34 RCW.

(12) "Multidisciplinary team" means a group formed to provide assistance and support to a child who is an at-risk youth or a child in need of services and his or her parent. The team ~~((shall))~~ 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 ~~((shall))~~ 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.

Sec. 2. RCW 13.32A.082 and 2011 c 151 s 1 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, any person ((who), unlicensed youth shelter, or runaway and homeless youth program that, without legal authorization, provides shelter to a minor and ((who) that knows at the time of providing the shelter that the minor is away from ((the parent's home without the permission of the parent, or other)) a lawfully prescribed residence or home without parental permission, shall promptly report the location of the child to the parent, the law enforcement agency of the jurisdiction in which the person lives, or the department.

((The report)) (b)(i) If a licensed overnight youth shelter, or another licensed organization with a stated mission to provide services to homeless or runaway youth and their families, shelters a child and knows at the time of providing the shelter that the child is away from a lawfully prescribed residence or home without parental permission, it must contact the youth's parent within seventy-two hours, but preferably within twenty-four hours, following the time that the youth is admitted to the shelter or other licensed organization's program. The notification must include the whereabouts of the youth, a description of the youth's physical and emotional condition, and the circumstances surrounding the youth's contact with the shelter or organization. If there are compelling reasons not to notify the parent, the shelter or organization must instead notify the department.

(ii) At least once every eight hours after learning that a youth receiving services or shelter under this section is away from home without permission, the shelter or organization staff must consult the information that the Washington state patrol makes publicly available under RCW 43.43.510(2). If the youth is publicly listed as missing, the shelter or organization must immediately notify the department of its contact with the youth listed as missing. The notification must include a description of the minor's physical and emotional condition and the circumstances surrounding the youth's contact with the shelter or organization.

(c) Reports required under this section may be made by telephone or any other reasonable means.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Shelter" means the person's home or any structure over which the person has any control.

(b) "Promptly report" means to report within eight hours after the person has knowledge that the minor is away from a lawfully prescribed residence or home without parental permission.

(c) "Compelling reasons" include, but are not limited to, circumstances that indicate that notifying the parent or legal guardian will subject the minor to abuse or neglect as defined in RCW 26.44.020.

(3) When the department receives a report under subsection (1) of this section, it shall make a good faith attempt to notify the parent that a report has

been received and offer services designed to resolve the conflict and accomplish a reunification of the family.

(4) Nothing in this section prohibits any person, unlicensed youth shelter, or runaway and homeless youth program from immediately reporting the identity and location of any minor who is away from a lawfully prescribed residence or home without parental permission more promptly than required under this section.

Sec. 3. RCW 13.32A.085 and 2010 c 229 s 3 are each amended to read as follows:

A private right of action or claim on the part of a parent is created against an unlicensed youth shelter or unlicensed runaway and homeless youth program ~~((who))~~ that fails to meet the ~~((notification))~~ reporting requirements in RCW 13.32A.082(1) (a), (b), and (c).

Sec. 4. RCW 43.43.510 and 2010 c 229 s 4 are each amended to read as follows:

(1) As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifying children whose parents, custodians, or legal guardians have reported as having run away from home or the custodial residence, identifiable stolen property, files maintaining the central registry of sex offenders required to register under chapter 9A.44 RCW, and such other files as may be of general assistance to law enforcement agencies.

(2)(a) At the request of a parent, legal custodian, or guardian who has reported a child as having run away from home or the custodial residence, the Washington state patrol shall make the information about the runaway child as is filed in subsection (1) of this section publicly available.

(b) The information that can be made publicly available under (a) of this subsection is limited to ~~((the))~~ information that will facilitate the safe return of the child to his or her home or custodial residence and so long as making the information publicly available incurs no additional costs.

Passed by the Senate January 30, 2013.

Passed by the House February 15, 2013.

Approved by the Governor February 27, 2013.

Filed in Office of Secretary of State February 27, 2013.

CHAPTER 5

[House Bill 1319]

STATE-RECOGNIZED DAYS—VIETNAM VETERANS

AN ACT Relating to recognizing a welcome home Vietnam veterans day; and amending RCW 1.16.050 and 1.20.017.

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

Sec. 1. RCW 1.16.050 and 2012 c 11 s 1 are each amended to read as follows:

The following are legal holidays: Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday of February to be known as Presidents' Day and to be celebrated as the

anniversary of the births of Abraham Lincoln and George Washington; the last Monday of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day; the fourth Thursday in November, to be known as Thanksgiving Day; the day immediately following Thanksgiving Day; and the twenty-fifth day of December, commonly called Christmas Day.

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, shall be 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 herein 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 any of the above specified state legal holidays are also federal legal holidays but observed on different dates, only the state legal holidays shall be recognized as a paid legal holiday for employees of the state and its political subdivisions except that for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday, but in no case both, may be recognized as a paid legal holiday for employees.

Whenever any legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be the legal holiday.

Whenever any legal holiday falls upon a Saturday, the preceding Friday shall be the legal holiday.

Nothing in this section shall 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.

The legislature declares that the thirteenth day of January shall be recognized as Korean-American day but shall not be considered a legal holiday for any purposes.

The legislature declares that the twelfth day of October shall be recognized as Columbus day but shall not be considered a legal holiday for any purposes.

The legislature declares that the ninth day of April shall be recognized as former prisoner of war recognition day but shall not be considered a legal holiday for any purposes.

The legislature declares that the twenty-sixth day of January shall be recognized as Washington army and air national guard day but shall not be considered a legal holiday for any purposes.

The legislature declares that the seventh day of August shall be recognized as purple heart recipient recognition day but shall not be considered a legal holiday for any purposes.

The legislature declares that the second Sunday in October be recognized as Washington state children's day but shall not be considered a legal holiday for any purposes.

The legislature declares that the sixteenth day of April shall be recognized as Mother Joseph day and the fourth day of September as Marcus Whitman day, but neither shall be considered legal holidays for any purpose.

The legislature declares that the seventh day of December be recognized as Pearl Harbor remembrance day but shall not be considered a legal holiday for any purpose.

The legislature declares that the twenty-seventh day of July be recognized as national Korean war veterans armistice day but shall not be considered a legal holiday for any purpose.

The legislature declares that the nineteenth day of February be recognized as civil liberties day of remembrance but shall not be considered a legal holiday for any purpose.

The legislature declares that the nineteenth day of June be recognized as Juneteenth, a day of remembrance for the day the slaves learned of their freedom, but shall not be considered a legal holiday for any purpose.

The legislature declares that the thirtieth day of March be recognized as welcome home Vietnam veterans day but shall not be considered a legal holiday for any purpose.

Sec. 2. RCW 1.20.017 and 2012 c 11 s 2 are each amended to read as follows:

(1) Each public entity shall display the national league of families' POW/MIA flag along with the flag of the United States and the flag of the state upon or near the principal building of the public entity on the following days: (a) Welcome Home Vietnam Veterans Day on March 30; (b) Armed Forces Day on the third Saturday in May; ~~((b))~~ (c) Memorial Day on the last Monday in May; ~~((c))~~ (d) Flag Day on June 14; ~~((d))~~ (e) Independence Day on July 4; ~~((e))~~ (f) National Korean War Veterans Armistice Day on July 27; ~~((f))~~ (g) National POW/MIA Recognition Day on the third Friday in September; and ~~((g))~~ (h) Veterans' Day on November 11. If the designated day falls on a Saturday or Sunday, then the POW/MIA flag will be displayed on the preceding Friday.

(2) The governor's veterans affairs advisory committee shall provide information to public entities regarding the purchase and display of the POW/MIA flag upon request.

(3) As used in this section, "public entity" means every state agency, including each institution of higher education, and every county, city, and town.

Passed by the House February 20, 2013.

Passed by the Senate March 25, 2013.

Approved by the Governor March 29, 2013.

Filed in Office of Secretary of State March 29, 2013.

CHAPTER 6

[Engrossed Second Substitute Senate Bill 5802]

GREENHOUSE GAS EMISSIONS—TARGETS

AN ACT Relating to developing recommendations to achieve the state's greenhouse gas emissions targets; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The office of financial management shall contract with an independent and objective consultant or consultants, as selected by the climate legislative and executive work group created in section 2 of this act, to prepare a credible evaluation of approaches to reducing greenhouse gas emissions, as outlined in this section.

(2) The evaluation must be provided to the governor by October 15, 2013, for use by the climate legislative and executive work group created in section 2 of this act, and prior to that date the independent and objective consultant or consultants selected under subsection (1) of this section may provide selective analyses, drafts, or portions of the report to the work group.

(3) The evaluation must include a review of comprehensive greenhouse gas emission reduction programs being implemented in other states and countries, including a review of reduction strategies being implemented in the Pacific Northwest, on the west coast, in neighboring provinces in Canada, and in other regions of the country. For each program, the evaluation must include available information about:

(a) The effectiveness in achieving the jurisdiction's emission reduction objectives, including the cost per ton of emission reduction;

(b) The relative impact upon different sectors of the jurisdiction's economy, including power rates, agriculture, manufacturing, and transportation fuel costs;

(c) The impacts upon household consumption and spending, including fuel, food, and housing costs, and program measures to mitigate impacts to low-income populations;

(d) Displacement of emission sources from the jurisdiction due to the program;

(e) Any significant cobenefits to the jurisdiction, such as reduction of potential adverse effects to public health, from implementing the program;

(f) Opportunities for new manufacturing infrastructure, investments in cleaner energy, and greater energy efficiency and jobs;

(g) Achievements in greater independence from fossil fuels and the costs and benefits to their economy of doing so; and

(h) The most effective strategy and the trade-offs made to implement that strategy.

(4) The evaluation must analyze:

(a) Washington's emissions and related energy consumption profile, including:

(i) Total expenditures for energy by fuel category; and

(ii) The sources of the fuels, including imports of oil and other fossil fuels;

(b) Options for an approach to emissions reduction that would increase expenditures upon energy sources produced in state relative to expenditures upon imported energy sources, and how that increase would affect job growth and economic performance;

(c) Opportunities for new manufacturing infrastructure and other job producing investments in Washington relating to cleaner energy and greater energy efficiency;

(d) Existing studies of the potential costs to Washington consumers and businesses of greenhouse gas emissions reduction programs or strategies being implemented in other jurisdictions;

(e) Washington state policies to stabilize or reduce greenhouse gas emissions that will contribute to meeting the greenhouse gas emissions targets, including:

- (i) Renewable fuels standard;
- (ii) Energy codes adopted by the state building code council;
- (iii) Emission performance standards;
- (iv) Appliance standards;
- (v) The energy independence act;
- (vi) Energy efficiency and energy consumption requirement programs for public buildings;
- (vii) Conversion of public vehicles to clean fuels; and
- (viii) Public purchasing requirements of vehicles that use clean fuels; and
- (f) The overall effect on global greenhouse gas levels if Washington meets its greenhouse gas emissions targets.

(5) The evaluation must also examine and summarize federal policies that will contribute to meeting the state greenhouse emissions targets, including:

- (a) Renewable fuel standards;
- (b) Tax incentives for renewable energy;
- (c) Tailpipe emissions standards for vehicles;
- (d) Corporate average fuel economy standards for cars and light trucks; and
- (e) Clean air act requirements for emissions from stationary sources and fossil-fueled electric generating units.

NEW SECTION. Sec. 2. (1)(a) The climate legislative and executive work group is created. The work group consists of five members and includes:

- (i) The governor, or the governor's designee, who shall be a nonvoting member;
- (ii) One member and an alternate from each major caucus of the house of representatives, appointed by the speaker of the house of representatives; and
- (iii) One member and an alternate from each major caucus of the senate, appointed by the president of the senate.
- (b) An alternate may serve as a member at a work group meeting only when a member from that caucus is unable to attend the meeting.

(2) The governor or the governor's designee is the chair of the work group.

(3) As required under section 1(1) of this act, the work group must select the consultant or consultants to be retained by the office of financial management. The consultant or consultants must demonstrate that they can perform nonpartisan, objective, and independent work. The work group may not select a consultant or consultants whose employer has retained a lobbyist in Washington state during the immediately preceding five years. Nor may the work group select a consultant or consultants whose employer or who has personally contributed to the campaign of a statewide elected official, legislative candidate, or any other political committee in the previous four years. No less than four of the work group's five members must support the retention of a consultant or consultants.

(4) The purpose of the work group is to recommend a state program of actions and policies to reduce greenhouse gas emissions, that if implemented would ensure achievement of the state's emissions targets in RCW 70.235.020. The recommendations must be prioritized to ensure the greatest amount of environmental benefit for each dollar spent and based on measures of

environmental effectiveness, including consideration of current best science, the effectiveness of the program and policies in terms of costs, benefits, and results, and how best to administer the program and policies. The work group recommendations must include a timeline for actions and funding needed to implement the recommendations. In order for a recommendation to be included in the report, it must be supported by a majority of the work group's voting members. Minority reports or comments must be included in the report.

(5) The members and alternates of the work group must be appointed by May 1, 2013. The work group may meet up to twice per month and must hold its first meeting by May 15, 2013.

(6) The work group shall use the evaluation required under section 1 of this act to inform the work group regarding experiences in other jurisdictions and may call on the author of the evaluation to respond to questions. All state agencies shall also cooperate with the work group in providing information regarding previous and current climate action reports and analyses.

(7) The work group shall schedule one or more meetings or portions of meetings at which the views of the public may be provided to the work group.

(8) The report of the work group must be provided to the appropriate policy and fiscal committees of the senate and house of representatives by December 31, 2013.

NEW SECTION. Sec. 3. Nothing in this act may be construed to enhance or diminish any existing authority regarding greenhouse gas emissions.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 13, 2013.

Passed by the House March 25, 2013.

Approved by the Governor April 2, 2013.

Filed in Office of Secretary of State April 2, 2013.

CHAPTER 7

[Senate Bill 5139]

MILK AND MILK PRODUCTS

AN ACT Relating to milk and milk products; amending RCW 15.36.201, 15.36.451, and 15.36.454; repealing RCW 15.36.457 and 15.36.471; and prescribing penalties.

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

Sec. 1. RCW 15.36.201 and 1999 c 291 s 12 are each amended to read as follows:

(1) During any consecutive six ~~((months))~~ month period, at least four samples of: (a) Either raw milk~~((;))~~ or raw milk for pasteurization, or both, from each ~~((dairy farm and))~~ milk producer; or (b)(i) raw milk for pasteurization~~((;))~~ after receipt by the milk processing plant and prior to pasteurization~~((;))~~; (ii) heat-treated milk products~~((;))~~; and (iii) pasteurized milk and milk products from each ~~((grade A))~~ milk processing plant~~((, for purposes of compliance with the PMO,))~~ shall be collected ~~((in at least four separate months))~~ and examined in an official laboratory~~((; PROVIDED, That))~~ to determine compliance with bacteriological or cooling temperature standards for milk or milk products

established in this chapter and rules adopted under this chapter. However, in the case of raw milk for pasteurization, the director may accept the results of an officially designated laboratory.

(2) If ~~((two of the last four consecutive))~~ a bacterial count~~((s)), somatic cell count((s)), coliform determination((s)), or cooling temperature((s, taken on separate days,))~~ exceeds the standard ~~((for milk or milk products established in this chapter and rules adopted under this chapter)),~~ the director shall send written notice ~~((thereof))~~ to the ~~((person concerned. This notice shall remain in effect so long as two of the last four consecutive samples exceed the limit of the same standard. An additional sample shall be taken after sending of the notice, but not before the lapse of three days))~~ milk producer or milk processor. The director may initiate proceedings to degrade or suspend the milk producer's license or milk processing plant license ~~((or))~~ and may assess a civil penalty whenever the standard is again violated ~~((so that three of the last five consecutive samples exceed the limit of the same standard))~~.

Sec. 2. RCW 15.36.451 and 1999 c 291 s 17 are each amended to read as follows:

Any producer or milk processing plant whose milk has been degraded by the director, or whose license has been suspended may at any time make application for the regrading of his or her products or the reinstatement of his or her license.

~~((Upon receipt of a satisfactory application,))~~ In case the lowered grade or the license suspension was the result of violation of the bacteriological or cooling temperature standards, the director ~~((shall))~~ may take further samples of the applicant's output, at a rate of not more than two samples per week. The director shall regrade the milk or milk products upward or reinstate the license on compliance with grade requirements as determined in accordance with the provisions of RCW 15.36.201.

In case the lowered grade of the applicant's product or the license suspension was due to a violation of an item other than bacteriological standard or cooling temperature, the said application must be accompanied by a statement signed by the applicant to the effect that the violated item of the specifications had been conformed with. Within one week of the receipt of such an application and statement the director shall make a reinspection of the applicant's establishment and thereafter as many additional reinspections as he or she may deem necessary to assure himself or herself that the applicant is again complying with the higher grade requirements. The higher grade or license shall be reinstated upon confirmation that all violated items are corrected and any period for reduction in grade or license suspensions as ordered by the director has been completed.

Sec. 3. RCW 15.36.454 and 1999 c 291 s 18 are each amended to read as follows:

(1) ~~((Except as provided in RCW 15.36.471 or subsection (2) or (3) of this section,))~~ Any person who fails to comply with this chapter or the rules adopted under this chapter may be subject to a civil penalty in an amount of not more than one thousand dollars per violation per day.

(2) The director ~~((shall))~~ may adopt ~~((rules establishing civil penalties assessed under RCW 15.36.111(1) and 15.36.201(2). The penalties shall be~~

~~equitably based on the volume of milk or milk product handled by the producer or milk processor subject to the penalty) by rule a penalty matrix that establishes procedures for civil penalties assessed under this chapter.~~

(3) Whenever the results of an antibiotic, pesticide, or other drug residue test on a producer's milk are above the actionable level established in the PMO, the producer is subject to a civil penalty (~~in an amount equal to one half the value of the sum of the volumes of milk produced on the day prior to and the day of the adulteration. The value of the milk shall be computed using the weighted average price for the federal market order under which the milk is delivered~~) under this section in addition to any other action taken under this chapter.

(4) The director may impose a civil penalty under this section for violations of the standards for component parts of fluid dairy products that are established in this chapter or rules adopted under this chapter.

(5) Each violation is a separate and distinct offense. The director shall impose the civil penalty in accordance with chapter 34.05 RCW. Moneys collected under this section (~~and RCW 15.36.471~~) shall be remitted to the department and deposited into the revolving fund of the Washington state dairy products commission.

NEW SECTION. Sec. 4. The following acts or parts of acts are each repealed:

(1) RCW 15.36.457 (Authority to assess civil penalty) and 1999 c 291 s 19; and

(2) RCW 15.36.471 (Component parts of fluid dairy products—Violations of standards—Civil penalty—Investigation) and 1999 c 291 s 20, 1994 c 143 s 511, 1993 c 212 s 3, 1989 c 175 s 49, & 1986 c 203 s 19.

Passed by the Senate February 6, 2013.

Passed by the House April 3, 2013.

Approved by the Governor April 17, 2013.

Filed in Office of Secretary of State April 17, 2013.

CHAPTER 8

[Senate Bill 5216]

LONG-TERM CARE INSURANCE—DENIALS—PAYMENTS

AN ACT Relating to long-term care insurance; and amending RCW 48.83.090 and 48.83.170.

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

Sec. 1. RCW 48.83.090 and 2008 c 145 s 10 are each amended to read as follows:

All long-term care denials must be made within (~~sixty~~) thirty days after receipt of a written request made by a policyholder or certificate holder, or his or her representative. All denials of long-term care claims by the issuer must provide a written explanation of the reasons for the denial and make available to the policyholder or certificate holder all information directly related to the denial.

Sec. 2. RCW 48.83.170 and 2008 c 145 s 18 are each amended to read as follows:

(1) The commissioner must adopt rules that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the

sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms. The commissioner must adopt rules establishing loss ratio standards for long-term care insurance policies. The commissioner must adopt rules to promote premium adequacy and to protect policyholders in the event of proposed substantial rate increases, and to establish minimum standards for producer education, marketing practices, producer compensation, producer testing, penalties, and reporting practices for long-term care insurance.

(2) The commissioner (~~shall~~) must adopt rules establishing standards protecting patient privacy rights, rights to receive confidential health care services, and standards for an issuer's timely review of a claim denial upon request of a covered person.

(3) The commissioner must adopt by rule prompt payment requirements for long-term care insurance. The rules must include a definition of a "claim" and a definition of "clean claim." In adopting the rules the commissioner must consider the prompt payment requirements in long-term care insurance model acts developed by the national association of insurance commissioners.

(4) The commissioner may adopt reasonable rules to effectuate any provision of this chapter in accordance with the requirements of chapter 34.05 RCW.

Passed by the Senate March 4, 2013.

Passed by the House April 3, 2013.

Approved by the Governor April 17, 2013.

Filed in Office of Secretary of State April 17, 2013.

CHAPTER 9

[Senate Bill 5488]

CRIMES—SEX TRAFFICKING—INTERNET ADVERTISEMENTS

AN ACT Relating to establishing an enhanced penalty for the use of an internet advertisement to facilitate the commission of a sex-trafficking crime; adding a new section to chapter 9.68A RCW; repealing RCW 9.68A.104; repealing 2012 c 138 s 1 (uncodified); and repealing 2012 c 138 s 3 (uncodified).

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.68A RCW to read as follows:

(1) In addition to all other penalties under this chapter, a person convicted of an offense under RCW 9.68A.100, 9.68A.101, or 9.68A.102 shall be assessed an additional fee of five thousand dollars per offense when the court finds that an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime.

(2) For purposes of this section, an "internet advertisement" means a statement in electronic media that would be understood by a reasonable person to be an implicit or explicit offer for sexual contact or sexual intercourse, both as defined in chapter 9A.44 RCW, in exchange for something of value.

(3) Amounts collected as penalties under this section shall be deposited in the account established under RCW 43.63A.740.

NEW SECTION. **Sec. 2.** The following acts or parts of acts are each repealed:

- (1) RCW 9.68A.104 (Advertising commercial sexual abuse of a minor—Penalty) and 2012 c 138 s 2;
- (2) 2012 c 138 s 1 (uncodified); and
- (3) 2012 c 138 s 3 (uncodified).

Passed by the Senate March 4, 2013.

Passed by the House April 3, 2013.

Approved by the Governor April 17, 2013.

Filed in Office of Secretary of State April 17, 2013.

CHAPTER 10

[Engrossed Substitute Senate Bill 5563]

K-12 SCHOOLS—SEX ABUSE TRAINING

AN ACT Relating to training school employees in the prevention of sexual abuse; amending RCW 28A.410.035, 28A.300.145, and 28A.400.317; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that when teachers and school staff are trained in identifying and preventing child sexual abuse, commercial sexual abuse of minors, and sexual exploitation of minors, students benefit.

Sec. 2. RCW 28A.410.035 and 1990 c 90 s 1 are each amended to read as follows:

To receive initial certification as a teacher in this state after August 31, 1991, an applicant shall have successfully completed a course on issues of abuse. The content of the course shall discuss the identification of physical abuse, emotional abuse, sexual abuse, and substance abuse((:)); commercial sexual abuse of a minor, as defined in RCW 9.68A.100; sexual exploitation of a minor, as defined in RCW 9.68A.040; information on the impact of abuse on the behavior and learning abilities of students((:)); discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse((:)); and methods for teaching students about abuse of all types and their prevention.

Sec. 3. RCW 28A.300.145 and 2006 c 135 s 2 are each amended to read as follows:

The Washington coalition of sexual assault programs, in consultation with the Washington association of sheriffs and police chiefs, the Washington association of prosecuting attorneys, the Washington state school directors' association, the association of Washington school principals, the center for children and youth justice, youthcare, the committee for children, the department of early learning, the department of social and health services, the office of crime victims advocacy, other relevant organizations, and the office of the superintendent of public instruction, shall ((develop)) by June 1, 2014, update

existing educational materials (~~(to be)~~) made available throughout the state to inform parents and other interested community members about:

(1) The laws related to sex offenses, including registration, community notification(~~(+)~~), and the classification of sex offenders based on an assessment of the risk of reoffending;

(2) How to recognize behaviors characteristic of sex offenses and sex offenders;

(3) How to prevent victimization, particularly that of young children;

(4) How to take advantage of community resources for victims of sexual assault; (~~and~~)

(5) How to prevent children from being recruited into sex trafficking; and

(6) Other information as deemed appropriate.

Sec. 4. RCW 28A.400.317 and 2004 c 135 s 1 are each amended to read as follows:

(1) A certificated or classified school employee who has knowledge or reasonable cause to believe that a student has been a victim of physical abuse or sexual misconduct by another school employee, shall report such abuse or misconduct to the appropriate school administrator. The school administrator shall cause a report to be made to the proper law enforcement agency if he or she has reasonable cause to believe that the misconduct or abuse has occurred as required under RCW 26.44.030. During the process of making a reasonable cause determination, the school administrator shall contact all parties involved in the complaint.

(2) Certificated and classified school employees shall receive training regarding their reporting obligations under state law in their orientation training when hired and then every three years thereafter. The training required under this subsection (~~(shall take place)~~) may be incorporated within existing training programs and related resources.

(3) Nothing in this section changes any of the duties established under RCW 26.44.030.

Passed by the Senate March 5, 2013.

Passed by the House April 3, 2013.

Approved by the Governor April 17, 2013.

Filed in Office of Secretary of State April 17, 2013.

CHAPTER 11

[Substitute Senate Bill 5518]

ELECTION PROVISIONS

AN ACT Relating to making nonsubstantive changes to election laws; amending RCW 29A.04.008, 29A.04.013, 29A.04.079, 29A.04.086, 29A.04.097, 29A.04.169, 29A.04.216, 29A.04.321, 29A.04.330, 29A.04.410, 29A.04.420, 29A.08.020, 29A.08.220, 29A.08.230, 29A.08.260, 29A.08.330, 29A.08.340, 29A.08.350, 29A.08.820, 29A.12.005, 29A.12.080, 29A.12.120, 29A.12.150, 29A.20.021, 29A.20.111, 29A.20.121, 29A.20.161, 29A.20.191, 29A.24.020, 29A.24.031, 29A.24.101, 29A.24.320, 29A.28.041, 29A.28.050, 29A.28.061, 29A.32.100, 29A.32.210, 29A.36.010, 29A.36.060, 29A.36.101, 29A.36.121, 29A.36.131, 29A.36.161, 29A.36.201, 29A.40.010, 29A.52.112, 29A.52.210, 29A.52.321, 29A.52.355, 29A.56.040, 29A.56.210, 29A.56.320, 29A.56.360, 29A.56.490, 29A.60.010, 29A.60.060, 29A.60.110, 29A.60.160, 29A.60.165, 29A.60.240, 29A.60.250, 29A.64.021, 29A.64.030, 29A.64.050, 29A.64.061, 29A.64.090, 29A.68.011, 29A.68.020, 29A.72.080, 29A.72.130, 29A.72.250, 29A.72.290, 29A.76.020, 29A.76.030, 29A.80.020, 29A.84.210, 29A.84.261,

29A.84.510, 29A.84.520, 29A.84.711, 29A.88.020, 29A.88.040, 42.12.040, 42.12.070, 46.20.155, 29A.24.311, and 29A.36.040; reenacting and amending RCW 29A.36.170, 29A.40.070, 29A.40.091, and 35.17.020; reenacting RCW 29A.08.520; adding a new section to chapter 29A.08 RCW; adding new sections to chapter 29A.24 RCW; adding new sections to chapter 29A.60 RCW; adding new sections to chapter 29A.56 RCW; adding a new section to chapter 29A.80 RCW; adding a new section to chapter 29A.16 RCW; recodifying RCW 29A.04.240, 29A.20.010, 29A.20.021, 29A.20.030, 29A.20.040, 29A.20.111, 29A.20.121, 29A.20.131, 29A.20.151, 29A.20.161, 29A.20.171, 29A.20.181, 29A.20.191, 29A.28.071, and 29A.76.030; repealing RCW 7.16.370, 29A.04.225, 29A.08.250, 29A.08.785, 29A.12.170, 29A.20.141, 29A.20.201, 29A.24.030, 29A.24.120, 29A.28.011, 29A.28.021, 29A.32.036, 29A.32.050, 29A.36.050, 29A.36.104, 29A.36.106, 29A.36.171, 29A.36.191, 29A.52.011, 29A.52.106, 29A.52.111, 29A.52.116, 29A.52.130, 29A.52.141, 29A.52.151, 29A.53.010, 29A.53.020, 29A.53.030, 29A.53.040, 29A.53.050, 29A.53.060, 29A.53.070, 29A.53.080, 29A.53.090, 29A.53.900, 29A.53.901, 29A.53.902, 29A.80.011, 44.04.015, and 49.28.120; and repealing 2009 c 369 s 27.

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

Sec. 1. RCW 29A.04.008 and 2011 c 10 s 1 are each amended to read as follows:

As used in this title:

(1) "Ballot" means, as the context implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;

(b) A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;

(c) A physical or electronic record of the choices of an individual voter in a particular primary, general election, or special election; or

(d) The physical document on which the voter's choices are to be recorded;

(2) "Paper ballot" means a piece of paper on which the ballot for a particular election or primary has been printed, on which a voter may record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

(3) "Ballot card" means any type of card or piece of paper of any size on which a voter may record his or her choices for any candidate and for or against any measure and that is to be tabulated on a vote tallying system;

(4) "Sample ballot" means a printed facsimile of all the issues and offices on the ballot in a jurisdiction and is intended to give voters notice of the issues, offices, and candidates that are to be voted on at a particular primary, general election, or special election;

(5) "Provisional ballot" means a ballot issued to a voter who would otherwise be denied an opportunity to vote a regular ballot, for any reason authorized by the Help America Vote Act, including but not limited to the following:

(a) The voter's name does not appear in the list of registered voters for the county;

(b) There is an indication in the voter registration system that the voter has already voted in that primary, special election, or general election, but the voter wishes to vote again;

(c) There is a question on the part of the voter concerning the issues or candidates on which the voter is qualified to vote;

(d) Any other reason allowed by law(;

~~(6) "Party ballot" means a primary election ballot specific to a particular major political party that lists all candidates for partisan office who affiliate with~~

~~that same major political party, as well as the nonpartisan races and ballot measures to be voted on at that primary;~~

(7) ~~"Nonpartisan ballot" means a primary election ballot that lists all nonpartisan races and ballot measures to be voted on at that primary).~~

Sec. 2. RCW 29A.04.013 and 2011 c 10 s 2 are each amended to read as follows:

"Canvassing" means the process of examining ballots or groups of ballots, subtotals, and cumulative totals in order to determine the official returns of a primary, special, or general election and includes the tabulation of any votes that were not previously tabulated.

Sec. 3. RCW 29A.04.079 and 2009 c 369 s 1 are each amended to read as follows:

An "infamous crime" is a crime punishable by death in the state penitentiary or imprisonment in a state or federal correctional facility. Neither an adjudication in juvenile court pursuant to chapter 13.40 RCW, nor a conviction for a misdemeanor or gross misdemeanor, is an "infamous crime."

Sec. 4. RCW 29A.04.086 and 2004 c 271 s 103 are each amended to read as follows:

"Major political party" means a political party (~~(of which at least one)~~) whose nominees for president(~~(-)~~) and vice president(~~(- United States senator, or a statewide office)~~) received at least five percent of the total vote cast at the last (~~(preceding state general election in an even numbered year)~~) presidential election. A political party qualifying as a major political party under this section retains such status until the next (~~(even year)~~) presidential election at which (~~(a candidate)~~) the presidential and vice presidential candidates of that party (~~(does)~~) do not achieve at least five percent of the vote (~~(for one of the previously specified offices)~~). (~~(If none of these offices appear on the ballot in an even-year general election, the major party retains its status as a major party through that election. However, a political party of which no nominee received at least ten percent of the total vote cast may forgo its status as a major political party by filing with the secretary of state an appropriate party rule within sixty days of attaining major party status under this section, or within fifteen days of June 10, 2004, whichever is later.)~~)

**Sec. 5. RCW 29A.04.097 and 2003 c 111 s 116 are each amended to read as follows:*

"Minor political party" means a political organization (~~(other than a major political party)~~) whose nominees for president and vice president qualified to appear on the ballot at the last presidential election under RCW 29A.20.191 (as recodified by this act). A minor political party retains such status until certification of the next presidential election.

**Sec. 5 was vetoed. See message at end of chapter.*

Sec. 6. RCW 29A.04.169 and 2003 c 111 s 130 are each amended to read as follows:

"Short term" means the brief period of time starting upon (~~(the completion of the)~~) certification of the general election (~~(returns)~~) or issuance of a certificate of election, and ending with the start of the next full term, and is applicable only when (~~(the office concerned is being held by an appointee to fill a vacancy. The vacancy must have occurred)~~) there has been a vacancy in the office after the last

election at which such office could have been voted upon for an unexpired term. Short term elections are always held in conjunction with elections for the full term for the office.

Sec. 7. RCW 29A.04.216 and 2011 c 10 s 6 are each amended to read as follows:

The county auditor of each county shall be ex officio the supervisor of all primaries and elections, general or special, and it shall be the county auditor's duty to provide places for holding such primaries and elections; to provide the supplies and materials necessary for the conduct of elections; and to publish and post notices of calling such primaries and elections in the manner provided by law. ~~((The notice of a primary held in an even-numbered year must indicate that the office of precinct committee officer will be on the ballot.))~~ The auditor shall also apportion to each city, town, or district, and to the state of Washington in the odd-numbered year, its share of the expense of such primaries and elections. This section does not apply to general or special elections for any city, town, or district that is not subject to RCW 29A.04.321 and 29A.04.330, but all such elections must be held and conducted at the time, in the manner, and by the officials (with such notice, requirements for filing for office, and certifications by local officers) as provided and required by the laws governing such elections.

Sec. 8. RCW 29A.04.321 and 2011 c 349 s 3 are each amended to read as follows:

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, and district officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A statewide general election shall be held on the first Tuesday after the first Monday of November of each year. However, the statewide general election held in odd-numbered years shall be limited to (a) city, town, and district general elections as provided for in RCW 29A.04.330, or as otherwise provided by law; (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the Congress of the United States; (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate.

(2) A county legislative authority may call a special county election by presenting a resolution to the county auditor prior to the proposed election date. A special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

- (a) The second Tuesday in February;
- (b) The ~~((third Tuesday in April until January 1, 2013;~~

- ~~(e) The~~) fourth Tuesday in April (~~(on or after January 1, 2013))~~;
- ~~((d))~~ (c) The day of the primary as specified by RCW 29A.04.311; or
- ~~((e))~~ (d) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) (~~(through (e))~~) and (b) of this section must be presented to the county auditor at least forty-six days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)~~((d))~~ (c) of this section must be presented to the county auditor no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection (2)~~((e))~~ (d) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to the dates set forth in subsection (2)(a) through ~~((e))~~ (d) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections. This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

Sec. 9. RCW 29A.04.330 and 2011 c 349 s 4 are each amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

- (a) Elections for the recall of any elective public officer;
- (b) Public utility districts, conservation districts, or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;
- (c) Consolidation proposals as provided for in RCW 28A.315.235 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW; and
- (d) Special flood control districts consisting of three or more counties.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor prior to the proposed election date, ~~((may))~~ shall call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Such a special election shall be held on one of the following dates as decided by the governing body:

- (a) The second Tuesday in February;
- (b) The ~~((third Tuesday in April until January 1, 2013~~;
- ~~(e) The~~) fourth Tuesday in April (~~(on or after January 1, 2013))~~;
- ~~((d))~~ (c) The day of the primary election as specified by RCW 29A.04.311;

or

~~((e))~~ (d) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) ~~((through-(e)))~~ and (b) of this section must be presented to the county auditor at least forty-six days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)~~((d))~~ (c) of this section must be presented to the county auditor no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection (2)~~((e))~~ (d) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to subsection (2)(a) through ~~((e))~~ (d) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in subsection (2)~~((d))~~ (c) and ~~((e))~~ (d) of this section. Such special election shall be conducted and notice thereof given in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

Sec. 10. RCW 29A.04.410 and 2003 c 111 s 146 are each amended to read as follows:

Every city, town, and district is liable for its proportionate share of the costs when such elections are held in conjunction with other elections held under RCW ~~((29A.04.320))~~ 29A.04.321 and 29A.04.330.

Whenever any city, town, or district holds any primary or election, general or special, on an isolated date, all costs of such elections must be borne by the city, town, or district concerned.

The purpose of this section is to clearly establish that the county is not responsible for any costs involved in the holding of any city, town, or district election.

In recovering such election expenses, including a reasonable pro-ration of administrative costs, the county auditor shall certify the cost to the county treasurer with a copy to the clerk or auditor of the city, town, or district concerned. Upon receipt of such certification, the county treasurer shall make the transfer from any available and appropriate city, town, or district funds to the county current expense fund or to the county election reserve fund if such a fund is established. Each city, town, or district must be promptly notified by the county treasurer whenever such transfer has been completed. However, in those districts wherein a treasurer, other than the county treasurer, has been appointed such transfer procedure does not apply, but the district shall promptly issue its warrant for payment of election costs.

Sec. 11. RCW 29A.04.420 and 2003 c 111 s 147 are each amended to read as follows:

(1) Whenever state officers or measures are voted upon at a state primary or general election held in an odd-numbered year under RCW ~~((29A.04.320))~~

29A.04.321, the state of Washington shall assume a prorated share of the costs of that state primary or general election.

(2) Whenever a primary or vacancy election is held to fill a vacancy in the position of United States senator or United States representative under chapter 29A.28 RCW, the state of Washington shall assume a prorated share of the costs of that primary or vacancy election.

(3) The county auditor shall apportion the state's share of these expenses when prorating election costs under RCW 29A.04.410 and shall file such expense claims with the secretary of state.

(4) The secretary of state shall include in his or her biennial budget requests sufficient funds to carry out this section. Reimbursements for election costs shall be from appropriations specifically provided by law for that purpose.

Sec. 12. RCW 29A.08.020 and 2004 c 267 s 103 are each amended to read as follows:

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

(1) "By mail" means delivery of a completed original voter registration application by mail to a county auditor or the office of the secretary of state.

(2) For voter registration applicants, "date of mailing" means the date of the postal cancellation on the voter registration application. This date will also be used as the date of application for the purpose of meeting the registration cutoff deadline. If the postal cancellation date is illegible then the date of receipt by the elections official is considered the date of application. If an application is received by ~~((the elections official))~~ a county auditor or the office of the secretary of state by the close of business on the fifth day after the cutoff date for voter registration and the postal cancellation date is illegible, the application will be considered to have arrived by the cutoff date for voter registration.

Sec. 13. RCW 29A.08.220 and 2004 c 267 s 115 are each amended to read as follows:

(1) The secretary of state shall specify by rule the format of all voter registration applications. These applications shall be compatible with existing voter registration records. An applicant for voter registration shall be required to complete only one application and to provide the required information other than his or her signature no more than one time. These applications shall also contain information for the voter to ~~((transfer))~~ update his or her registration.

(2) Any application format specified by the secretary for use in registering to vote in state and local elections shall satisfy the requirements of the National Voter Registration Act of 1993 (P.L. 103-31) and the Help America Vote Act of 2002 (P.L. 107-252) for registering to vote in federal elections.

~~((2) All registration applications required under RCW 29A.08.210 and 29A.08.340 shall be produced and furnished by the secretary of state to the county auditors and the department of licensing.))~~

Sec. 14. RCW 29A.08.230 and 2009 c 369 s 17 are each amended to read as follows:

For all voter registrations, the registrant shall sign the following oath:

"I declare that the facts on this voter registration form are true. I am a citizen of the United States, ~~((I am not presently denied the right to vote as a result of being convicted of a felony.))~~ I will have lived ~~((in))~~ at this address in

Washington (~~(at this address)~~) for at least thirty days immediately before the next election at which I vote, (~~and~~) I will be at least eighteen years old when I vote, I am not disqualified from voting due to a court order, and I am not under department of corrections supervision for a Washington felony conviction."

Sec. 15. RCW 29A.08.260 and 2009 c 369 s 18 are each amended to read as follows:

(1) All registration applications required under RCW 29A.08.210 and 29A.08.340 shall be produced and furnished by the secretary of state to the county auditors and the department of licensing.

(2) The county auditor shall distribute forms by which a person may register to vote by mail and transfer any previous registration in this state. The county auditor shall keep a supply of voter registration forms in his or her office at all times for political parties and others interested in assisting in voter registration, and shall make every effort to make these forms generally available to the public. The county auditor shall provide voter registration forms to city and town clerks, state offices, schools, fire stations, public libraries, and any other locations considered appropriate by the auditor or secretary of state for extending registration opportunities to all areas of the county. After the initial distribution of voter registration forms to a given location, a representative designated by the official in charge of that location shall notify the county auditor of the need for additional voter registration supplies.

Sec. 16. RCW 29A.08.330 and 2009 c 369 s 20 are each amended to read as follows:

(1) The secretary of state shall prescribe the method of voter registration for each designated agency. The agency shall use either the state voter registration by mail form with a separate declination form for the applicant to indicate that he or she declines to register at this time, or the agency may use a separate form approved for use by the secretary of state.

(2) The person providing service at the agency shall offer voter registration services to every client whenever he or she applies for service or assistance and with each renewal, recertification, or change of address. The person providing service shall give the applicant the same level of assistance with the voter registration application as is offered to fill out the agency's forms and documents, including information about age and citizenship requirements for voter registration.

(3) The person providing service at the agency shall determine if the prospective applicant wants to register to vote or (~~(transfer)~~) update his or her voter registration by asking the following question:

"Do you want to register to vote or (~~(transfer)~~) update your voter registration?"

If the applicant chooses to register or (~~(transfer)~~) update a registration, the service agent shall ask the following:

(a) "Are you a United States citizen?"

(b) "Are you or will you be eighteen years of age on or before the next election?"

If the applicant answers in the affirmative to both questions, the agent shall then provide the applicant with a voter registration form and instructions and shall record that the applicant has requested to register (~~(to vote or transfer)~~) or update a voter registration. If the applicant answers in the negative to either question, the agent shall not provide the applicant with a voter registration form.

(4) If an agency uses a computerized application process, it may, in consultation with the secretary of state, develop methods to capture simultaneously the information required for voter registration during a person's computerized application process.

(5) Each designated agency shall transmit the applications to the secretary of state or appropriate county auditor within three business days.

Sec. 17. RCW 29A.08.340 and 2003 c 111 s 225 are each amended to read as follows:

(1) A person may register to vote (~~(, transfer a voter registration, or change his or her name for)~~) or update his or her voter registration (~~(purposes)~~) when he or she applies for or renews a driver's license or identification card under chapter 46.20 RCW.

(2) To register to vote (~~(, transfer his or her voter registration, or change his or her name for voter registration purposes under this section))~~) or update a registration, the applicant shall provide the information required by RCW (~~(29A.08.210))~~ 29A.08.010.

(3) The driver licensing agent shall record that the applicant has requested to register to vote or (~~(transfer)~~) update a voter registration.

Sec. 18. RCW 29A.08.350 and 2009 c 369 s 21 are each amended to read as follows:

The department of licensing shall produce and transmit to the secretary of state the following information from the records of each individual who requested a voter registration or (~~(transfer)~~) update at a driver's license facility: The name, address, date of birth, gender of the applicant, the driver's license number, and the date on which the application for voter registration or (~~(transfer)~~) update was submitted. The secretary of state shall process the registrations and (~~(transfers))~~ updates as an electronic application.

Sec. 19. RCW 29A.08.520 and 2009 c 325 s 1 are each reenacted to read as follows:

(1) For a felony conviction in a Washington state court, the right to vote is provisionally restored as long as the person is not under the authority of the department of corrections. For a felony conviction in a federal court or any state court other than a Washington state court, the right to vote is restored as long as the person is no longer incarcerated.

(2)(a) Once the right to vote has been provisionally restored, the sentencing court may revoke the provisional restoration of voting rights if the sentencing court determines that a person has willfully failed to comply with the terms of his or her order to pay legal financial obligations.

(b) If the person has failed to make three payments in a twelve-month period and the county clerk or restitution recipient requests, the prosecutor shall seek revocation of the provisional restoration of voting rights from the court.

(c) To the extent practicable, the prosecutor and county clerk shall inform a restitution recipient of the recipient's right to ask for the revocation of the provisional restoration of voting rights.

(3) If the court revokes the provisional restoration of voting rights, the revocation shall remain in effect until, upon motion by the person whose provisional voting rights have been revoked, the person shows that he or she has made a good faith effort to pay as defined in RCW 10.82.090.

(4) The county clerk shall enter into a database maintained by the administrator for the courts the names of all persons whose provisional voting rights have been revoked, and update the database for any person whose voting rights have subsequently been restored pursuant to subsection (6) of this section.

(5) At least twice a year, the secretary of state shall compare the list of registered voters to a list of felons who are not eligible to vote as provided in subsections (1) and (3) of this section. If a registered voter is not eligible to vote as provided in this section, the secretary of state or county auditor shall confirm the match through a date of birth comparison and suspend the voter registration from the official state voter registration list. The secretary of state or county auditor shall send to the person at his or her last known voter registration address and at the department of corrections, if the person is under the authority of the department, a notice of the proposed cancellation and an explanation of the requirements for provisionally and permanently restoring the right to vote and reregistering. To the extent possible, the secretary of state shall time the comparison required by this subsection to allow notice and cancellation of voting rights for ineligible voters prior to a primary or general election.

(6) The right to vote may be permanently restored by one of the following for each felony conviction:

(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(b) A court order restoring the right, as provided in RCW 9.92.066;

(c) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020.

(7) For the purposes of this section, a person is under the authority of the department of corrections if the person is:

(a) Serving a sentence of confinement in the custody of the department of corrections; or

(b) Subject to community custody as defined in RCW 9.94A.030.

Sec. 20. RCW 29A.08.820 and 2011 c 10 s 21 are each amended to read as follows:

(1) Challenges (~~initiated by a registered voter against a voter who~~) must be filed with the county auditor of the county in which the challenged voter is registered no later than forty-five days before the election. The county auditor presides over the hearing.

(2) Only if the challenged voter registered to vote less than sixty days before the election, or (~~who~~) changed residence less than sixty days before the election without transferring his or her registration, (~~must~~) may a challenge be filed not later than ten days before any primary or election, general or special, or within ten days of the voter being added to the voter registration database,

whichever is later(~~(, at the office of the appropriate county auditor. Challenges initiated by a registered voter or county prosecuting attorney must be filed not later than forty-five days before the election)).~~

~~((2))~~(a) If the challenge is filed within forty-five days before an election at which the challenged voter is eligible to vote, a notation of the challenge must be made immediately in the voter registration system, and the county canvassing board presides over the hearing.

(b) If the challenge is filed before the challenged voter's ballot is received, the ballot must be treated as a challenged ballot.

(c) If the challenge is filed after the challenged voter's ballot is received, the challenge cannot affect the current election.

~~((3) If the challenge is filed at least forty-five days before an election at which the challenged voter is eligible to vote, the county auditor presides over the hearing.))~~

Sec. 21. RCW 29A.12.005 and 2004 c 267 s 601 are each amended to read as follows:

As used in this chapter, "voting system" means:

(1) The total combination of mechanical, electromechanical, or electronic equipment including, but not limited to, the software, firmware, and documentation required to program, control, and support the equipment, that is used:

- (a) To define ballots;
- (b) To cast and count votes;
- (c) To report or display election results from the voting system; and
- (d) To maintain and produce any audit trail information; and

(2) The practices and associated documentation used:

- (a) To identify system components and versions of such components;
- (b) To test the system during its development and maintenance;
- (c) To maintain records of system errors and defects;

(d) To determine specific system changes to be made to a system after the initial qualification of the system; and

(e) To make available any materials to the voter such as notices, instructions, forms, or paper ballots.

Sec. 22. RCW 29A.12.080 and 2006 c 207 s 2 are each amended to read as follows:

No voting device shall be approved by the secretary of state unless it:

(1) Secures to the voter secrecy in the act of voting;

(2) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;

(3) ~~((Permits the voter to vote for all the candidates of one party;~~

~~(4))~~ Correctly registers all votes cast for any and all persons and for or against any and all measures;

~~((5))~~ (4) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice president of the United States; and

~~((6))~~ (5) Except for functions or capabilities unique to this state, has been tested and certified by an independent testing authority designated by the United States election assistance commission.

Sec. 23. RCW 29A.12.120 and 2011 c 10 s 24 are each amended to read as follows:

(1) Before each state primary or general election at which voting systems are to be used, the county auditor shall instruct all counting center personnel who will operate a voting system in the proper conduct of their voting system duties.

(2) The county auditor may waive instructional requirements for counting center personnel who have previously received instruction and who have served for a sufficient length of time to be fully qualified to perform their duties. The county auditor shall keep a record of each person who has received instruction and is qualified to serve at the subsequent primary or election.

(3) No person may ~~((work))~~ operate a voting system in a counting center at a primary or election ~~((at which a vote tallying system is used))~~ unless that person has received the required instruction and is qualified to perform his or her duties in connection with the handling and tallying of ballots for that primary or election.

Sec. 24. RCW 29A.12.150 and 2003 c 111 s 315 are each amended to read as follows:

~~((1) No voting device or machine may be used in a county with a population of seventy thousand or more to conduct a primary or general or special election in this state unless it correctly records on a separate ballot the votes cast by each elector for any person and for or against any measure and such separate ballots are available for audit purposes after such a primary or election.~~

~~((2))~~ The secretary of state shall not certify under this title any voting device or machine for use in conducting a primary or general or special election in this state unless the device or machine correctly records on a separate ballot the votes cast by each elector for any person and for or against any measure and such separate ballots are available for audit purposes after such a primary or election.

Sec. 25. RCW 29A.20.021 and 2004 c 271 s 153 are each amended to read as follows:

(1) A person filing a declaration of candidacy for an office shall, at the time of filing, be a registered voter and possess the qualifications specified by law for persons who may be elected to the office.

(2) Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, no person may file for more than one office.

(3) The name of a candidate for an office shall not appear on a ballot for that office unless, except for judge of the superior court and as provided in RCW ~~((3.46.067 and))~~ 3.50.057, the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in the geographic area represented by the office. For the purposes of this section, each geographic area in which registered voters may cast ballots for an office is represented by that office. If a person elected to an office must be nominated from a district or similar division of the geographic area represented by the office, the name of a candidate for the office shall not appear on a primary ballot for that office unless the candidate is, at the time the candidate's declaration of candidacy is filed, properly registered to vote in that district or division. The officer with whom

declarations of candidacy must be filed under this title shall review each such declaration filed regarding compliance with this subsection.

(4) The requirements of voter registration and residence within the geographic area of a district do not apply to candidates for congressional office. Qualifications for the United States congress are specified in the United States Constitution.

Sec. 26. RCW 29A.20.111 and 2004 c 271 s 188 are each amended to read as follows:

A "convention" for the purposes of this chapter, is an organized assemblage of registered voters representing an independent candidate or candidates or a new or minor political party, organization, or principle. ~~((As used in this chapter, the term "election jurisdiction" shall mean the state or any political subdivision or jurisdiction of the state from which partisan officials are elected. This term shall include county commissioner districts or council districts for members of a county legislative authority, counties for county officials who are nominated and elected on a countywide basis, legislative districts for members of the legislature, congressional districts for members of Congress, and the state for president and vice president, members of the United States senate, and state officials who are elected on a statewide basis.))~~

Sec. 27. RCW 29A.20.121 and 2006 c 344 s 4 are each amended to read as follows:

~~((1) Any nomination of a candidate for partisan public office by other than a major political party may be made only: (a) In a convention held not earlier than the first Saturday in May and not later than the second Saturday in May or during any of the seven days immediately preceding the first day for filing declarations of candidacy as fixed in accordance with RCW 29A.28.041; (b) as provided by RCW 29A.60.021; or (c) as otherwise provided in this section. Minor political party and independent candidates may appear only on the general election ballot.~~

~~((2)) Nominations of candidates for president and vice president of the United States, other than by a major political party, may be made ((either)) at a convention conducted ((under subsection (1) of this section, or at a similar convention taking place)) not earlier than the first Saturday in ((June)) May and not later than the fourth Saturday in July in the year that president and vice president appear on the general election ballot. ~~((Conventions held during this time period may not nominate candidates for any public office other than president and vice president of the United States, except as provided in subsection (3) of this section.~~~~

~~((3) If a special filing period for a partisan office is opened under RCW 29A.24.211, candidates of minor political parties and independent candidates may file for office during that special filing period. The names of those candidates may not appear on the general election ballot unless they are nominated by convention held no later than five days after the close of the special filing period and a certificate of nomination is filed with the filing officer no later than three days after the convention. The requirements of RCW 29A.20.131 do not apply to such a convention.~~

~~((4)) A minor political party may hold more than one convention but in no case shall any such party nominate more than one candidate for ((any one~~

~~partisan public office or position)) president or more than one candidate for vice president. ((For the purpose of nominating candidates for the offices of president and vice president, United States senator, United States representative, or a statewide office,)) To be valid, a convention must be attended by at least one hundred registered voters, but a minor party or independent candidate holding multiple conventions may add together the number of signatures of different individuals from each convention ((obtained in support of the candidate or candidates)) in order to obtain ((the number required by RCW 29A.20.141)) and submit to the secretary of state the signatures of at least one thousand registered voters of the state of Washington. ((For all other offices for which nominations are made, signatures of the requisite number of registered voters must be obtained at a single convention.))~~

Sec. 28. RCW 29A.20.161 and 2004 c 271 s 154 are each amended to read as follows:

A certificate evidencing nominations made at a convention must:

- (1) Be in writing;
- (2) Contain the name of each person nominated, his or her residence, ~~((and))~~ the office for which he or she is named, and ~~((if the nomination is for the offices of president and vice president of the United States,))~~ a sworn statement from both nominees giving their consent to the nomination;
- (3) Identify the minor political party or the independent candidate on whose behalf the convention was held;
- (4) Be verified by the oath of the presiding officer and secretary;
- (5) Be accompanied by a nominating petition or petitions bearing the signatures and addresses of ~~((registered voters equal in number to that required by RCW 29A.20.141))~~ at least one thousand registered voters of the state of Washington;
- (6) Contain proof of publication of the notice of calling the convention; and
- (7) Be submitted to the ~~((appropriate filing officer))~~ secretary of state not later than ~~((one week following the adjournment of the convention at which the nominations were made))~~ the first Friday of August. ~~((If the nominations are made only for offices whose jurisdiction is entirely within one county, the certificate and nominating petitions must be filed with the county auditor. If a minor party or independent candidate convention nominates any candidates for offices whose jurisdiction encompasses more than one county, all nominating petitions and the convention certificates must be filed with the secretary of state.))~~

Sec. 29. RCW 29A.20.191 and 2004 c 271 s 157 are each amended to read as follows:

Upon the receipt of the certificate of nomination, the ~~((officer with whom it is filed))~~ secretary of state shall check the certificate and canvass the signatures on the accompanying nominating petitions to determine if the requirements of RCW ~~((29A.20.141))~~ 29A.20.161 (as recodified by this act) have been met. Once the determination has been made, the ~~((filing officer))~~ secretary of state shall notify the presiding officer of the convention and any other persons requesting the notification, of his or her decision regarding the sufficiency of the certificate or the nominating petitions. Any appeal regarding the ~~((filing officer's))~~ secretary's determination must be filed with the superior court of

~~((the))~~ Thurston county ~~((in which the certificate or petitions were filed))~~ not later than five days from the date the determination is made, and shall be heard and finally disposed of by the court within five days of the filing. Nominating petitions shall not be available for public inspection or copying.

Sec. 30. RCW 29A.24.020 and 2003 c 111 s 602 are each amended to read as follows:

If at the same election there are short terms or full terms and unexpired terms of office to be filled, the filing officer shall distinguish them and designate the short term, the full term, and the unexpired term, as such, or by use of the words "short term," "unexpired two year term," or "four year term," as the case may be.

~~((In filing the declaration of candidacy in such cases the candidate shall specify that the candidacy is for the short term, the full term, or the unexpired term.))~~ When both a short term and a full term for the same position are scheduled to be voted upon, or when a short term is created after the close of the filing period, a single declaration of candidacy accompanied by a single filing fee shall be construed as a filing for both the short term and the full term and the name of such candidate shall appear upon the ballot for the position sought with the designation "short term and full term." The candidate elected to both such terms shall be sworn into and assume office for the short term as soon as the election returns have been certified and shall again be sworn into office ~~((on the second Monday in January following the election to assume office))~~ for the full term.

Sec. 31. RCW 29A.24.031 and 2004 c 271 s 158 are each amended to read as follows:

A candidate who desires to have his or her name printed on the ballot for election to an office other than president of the United States, vice president of the United States, or an office for which ownership of property is a prerequisite to voting shall complete and file a declaration of candidacy. The secretary of state shall adopt, by rule, a declaration of candidacy form for the office of precinct committee officer and a separate standard form for candidates for all other offices filing under this chapter. Included on the standard form shall be:

(1) A place for the candidate to declare that he or she is a registered voter within the jurisdiction of the office for which he or she is filing, and the address at which he or she is registered;

(2) A place for the candidate to indicate the position for which he or she is filing;

(3) A place for the candidate to ~~((indicate a party designation, if applicable))~~ state a party preference, if the office is a partisan office;

(4) A place for the candidate to indicate the amount of the filing fee accompanying the declaration of candidacy or for the candidate to indicate that he or she is filing a ~~((nominating))~~ filing fee petition in lieu of the filing fee under RCW 29A.24.091;

(5) A place for the candidate to sign the declaration of candidacy, stating that the information provided on the form is true and swearing or affirming that he or she will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

In the case of a declaration of candidacy filed electronically, submission of the form constitutes agreement that the information provided with the filing is true, that he or she will support the Constitutions and laws of the United States and the state of Washington, and that he or she agrees to electronic payment of the filing fee established in RCW 29A.24.091.

The secretary of state may require any other information on the form he or she deems appropriate to facilitate the filing process.

Sec. 32. RCW 29A.24.101 and 2006 c 206 s 4 are each amended to read as follows:

(1) The filing fee petition authorized by RCW 29A.24.091 must be printed on sheets of uniform color and size, must include a place for each individual to sign and print his or her name and the address, city, and county at which he or she is registered to vote, and must contain no more than twenty numbered lines.

(2) ~~((For candidates for nonpartisan office and candidates of a major political party for partisan office,))~~ The filing fee petition must be in substantially the following form:

The warning prescribed by RCW 29A.72.140; followed by:

We, the undersigned registered voters of (the state of Washington or the political subdivision for which the nomination is made) , hereby petition that the name of (candidate's name) be printed on the official primary ballot for the office of (insert name of office) .

~~(((3) For independent candidates and candidates of a minor political party for partisan office, the filing fee petition must be in substantially the following form:~~

~~The warning prescribed by RCW 29A.72.140; followed by:~~

~~We, the undersigned registered voters of (the state of Washington or the political subdivision for which the nomination is made) , hereby petition that the name of (candidate's name) be printed on the official general election ballot for the office of (insert name of office) .)~~

Sec. 33. RCW 29A.24.320 and 2003 c 111 s 623 are each amended to read as follows:

The secretary of state shall notify each county auditor of any declarations filed with the secretary under RCW ~~((29A.24.310))~~ 29A.24.311 for offices appearing on the ballot in that county. The county auditor shall ensure that those persons charged with counting the ballots for a primary or election are notified of all valid write-in candidates before the tabulation of those ballots.

Sec. 34. RCW 29A.28.041 and 2011 c 349 s 14 are each amended to read as follows:

(1) Whenever a vacancy occurs in the United States house of representatives or the United States senate from this state, the governor shall order a special election to fill the vacancy. ~~((Minor political party candidates and independent candidates may be nominated through the convention procedures provided in chapter 29A.20 RCW.))~~

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the primary at least seventy days after issuance of the

writ, and fixing a date for the election at least seventy days after the date of the primary. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than eight months before a ((state)) general election and before the close of the filing period for that general election, the special primary((;)) and special vacancy election((, and minor party and independent candidate nominating conventions)) must be held in concert with the state primary and ((state)) general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29A.24.050 and on or before the close of the filing period, a special filing period of three normal business days shall be fixed ((by the governor)) and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. ((The names of major political party candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot. The requirements of RCW 29A.20.131 do not apply to a minor political party or independent candidate convention held under this subsection.))

(5) If the vacancy occurs later than the close of the filing period, a special primary and vacancy election to fill the position shall be held after the next ((state)) general election but, in any event, no later than the ninetieth day following the ((November)) general election.

Sec. 35. RCW 29A.28.050 and 2003 c 111 s 705 are each amended to read as follows:

After calling a special primary and special vacancy election to fill a vacancy in the United States house of representatives or the United States senate from this state, the governor shall immediately notify the secretary of state who shall, in turn, immediately notify the county auditor of each county wholly or partly within which the vacancy exists.

Each county auditor shall publish notices of the special primary and the special vacancy election at least once in any legal newspaper published in the county, as provided by RCW ((29A.52.340 and 29A.52.350 respectively)) 29A.52.355.

Sec. 36. RCW 29A.28.061 and 2011 c 10 s 28 are each amended to read as follows:

The general election laws and laws relating to partisan primaries shall apply to the special primaries and vacancy elections provided for in chapter 29A.28 RCW to the extent that they are not inconsistent with the provisions of these sections. ((Minor political party and independent candidates may appear only on the general election ballot.)) Statutory time deadlines relating to availability of ballots, certification, canvassing, and related procedures that cannot be met in a timely fashion may be modified for the purposes of a specific primary or vacancy election under this chapter by the secretary of state through emergency rules adopted under RCW 29A.04.611.

Sec. 37. RCW 29A.32.100 and 2003 c 111 s 810 are each amended to read as follows:

(1) An argument or statement submitted to the secretary of state for publication in the voters' pamphlet is not available for public inspection or copying until:

(a) In the case of candidate statements, (i) all statements by all candidates who have filed for a particular office have been received, except those who informed the secretary that they will not submit statements, or (ii) the deadline for submission of statements has elapsed;

(b) In the case of arguments supporting or opposing a measure, (i) the arguments on both sides have been received, unless a committee was not appointed for one side, or (ii) the deadline for submission of arguments has elapsed; and

(c) In the case of rebuttal arguments, (i) the rebuttals on both sides have been received, unless a committee was not appointed for one side, or (ii) the deadline for submission of arguments has elapsed.

(2) Nothing in this section prohibits the secretary from releasing information under RCW 29A.32.090(~~((2)(d))~~).

Sec. 38. RCW 29A.32.210 and 2003 c 111 s 813 are each amended to read as follows:

At least ninety days before any primary or general election, or at least forty days before any special election held under RCW (~~(29A.04.320)~~) 29A.04.321 or 29A.04.330, the legislative authority of any county or first-class or code city may adopt an ordinance authorizing the publication and distribution of a local voters' pamphlet. The pamphlet shall provide information on all measures within that jurisdiction and may, if specified in the ordinance, include information on candidates within that jurisdiction. If both a county and a first-class or code city within that county authorize a local voters' pamphlet for the same election, the pamphlet shall be produced jointly by the county and the first-class or code city. If no agreement can be reached between the county and first-class or code city, the county and first-class or code city may each produce a pamphlet. Any ordinance adopted authorizing a local voters' pamphlet may be for a specific primary, special election, or general election or for any future primaries or elections. The format of any local voters' pamphlet shall, whenever applicable, comply with the provisions of this chapter regarding the publication of the state candidates' and voters' pamphlets.

Sec. 39. RCW 29A.36.010 and 2011 c 349 s 15 are each amended to read as follows:

Not later than the Tuesday following the regular filing period, the secretary of state shall certify to each county auditor a list of the candidates who have filed declarations of candidacy in his or her office for the primary. For each office, the certificate shall include the name of each candidate, his or her address, and his or her party preference (~~(or independent designation as shown)~~) , if any, provided on filed declarations.

Sec. 40. RCW 29A.36.060 and 2003 c 111 s 906 are each amended to read as follows:

If any persons are dissatisfied with the ballot title for a proposed constitution(~~(:)~~) or constitutional amendment(~~(, or question submitted under RCW 29A.36.050)~~), they may at any time within ten days from the time of the filing of the ballot title and summary, not including Saturdays, Sundays, or legal

holidays, appeal to the superior court of Thurston county by petition setting forth the measure, the ballot title objected to, their objections to it, and praying for amendment of the ballot title. The time of the filing of the ballot title, as used in this section for establishing the time for appeal, is the time the ballot title is first filed with the secretary of state.

A copy of the petition on appeal together with a notice that an appeal has been taken must be served upon the secretary of state, the attorney general, the chief clerk of the house of representatives, and the secretary of the senate. Upon the filing of the petition on appeal, the court shall immediately, or at the time to which a hearing may be adjourned by consent of the appellants, examine the proposed measure, the ballot title filed, and the objections to it and may hear arguments on it, and shall as soon as possible render its decision and certify to and file with the secretary of state a ballot title that it determines will meet the requirements of this chapter. The decision of the superior court is final, and the ballot title so certified will be the established ballot title. The appeal must be heard without cost to either party.

Sec. 41. RCW 29A.36.101 and 2004 c 271 s 125 are each amended to read as follows:

Except for the candidates for ~~((the positions of))~~ president and vice president, or for a partisan or nonpartisan office for which no primary is required, ~~((or for independent or minor party candidates,))~~ the names of all candidates who, under this title, filed a declaration of candidacy ~~((or were certified as a candidate to fill a vacancy on a major party ticket will))~~ must appear on the appropriate ballot at the primary throughout the jurisdiction ~~((in which they are to be nominated))~~ for which they filed.

Sec. 42. RCW 29A.36.121 and 2004 c 271 s 129 are each amended to read as follows:

(1)~~((a))~~ The positions or offices on a primary consolidated ballot shall be arranged in substantially the following order: United States senator; United States representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney general; commissioner of public lands; superintendent of public instruction; insurance commissioner; state senator; state representative; county officers; justices of the supreme court; judges of the court of appeals; judges of the superior court; and judges of the district court. For all other jurisdictions on the primary ~~((consolidated))~~ ballot, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any.

~~((b))~~(i) ~~The positions or offices on a primary party ballot must be arranged in substantially the following order: United States senator; United States representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney general; commissioner of public lands; insurance commissioner; state senator; state representative; and partisan county officers. For all other jurisdictions on the primary party ballot, the offices in each jurisdiction must be grouped together and be in the order of the position numbers assigned to those offices, if any.~~

(ii) ~~The positions or offices on a primary nonpartisan ballot must be arranged in substantially the following order: Superintendent of public instruction; justices of the supreme court; judges of the court of appeals; judges~~

~~of the superior court; and judges of the district court. For all other jurisdictions on the primary nonpartisan ballot, the offices in each jurisdiction must be grouped together and be in the order of the position numbers assigned to those offices, if any.)~~

(2) The order of the positions or offices on ~~((an))~~ a general election ballot shall be substantially the same as on a primary ~~((consolidated))~~ ballot except that state ballot issues must be placed before all offices. The offices of president and vice president of the United States shall precede all other offices on a presidential election ballot. The positions on a ballot to be assigned to ballot measures regarding local units of government shall be established by the secretary of state by rule.

~~((3) The political party or independent candidacy of each candidate for partisan office shall be indicated next to the name of the candidate on the primary and election ballot. A candidate shall file a written notice with the filing officer within three business days after the close of the filing period designating the political party to be indicated next to the candidate's name on the ballot if either: (a) The candidate has been nominated by two or more minor political parties or independent conventions; or (b) the candidate has both filed a declaration of candidacy declaring an affiliation with a major political party and been nominated by a minor political party or independent convention. If no written notice is filed the filing officer shall give effect to the party designation shown upon the first document filed. A candidate may be deemed nominated by a minor party or independent convention only if all documentation required by chapter 29A.20 RCW has been timely filed.))~~

Sec. 43. RCW 29A.36.131 and 2011 c 10 s 32 are each amended to read as follows:

After the close of business on the last day for candidates to file for office, the filing officer shall ~~((from among those filings made in person and by mail,))~~ determine by lot the order in which the names of those candidates will appear on all ballots. The determination shall be done publicly and may be witnessed by the media and by any candidate. If no primary is required ~~((for any nonpartisan office under RCW 29A.52.011 or 29A.52.220, or if any independent or minor party candidate files a declaration of candidacy)),~~ the names shall appear on the general election ballot in the order determined by lot.

Sec. 44. RCW 29A.36.161 and 2011 c 10 s 33 are each amended to read as follows:

(1) On the top of each ballot must be printed clear and concise instructions directing the voter how to mark the ballot, including write-in votes. ~~((On the top of each primary ballot must be printed the instructions required by this chapter.))~~

(2) The ballot must have a clear delineation between the ballot instructions and the first ballot measure or office through the use of white space, illustration, shading, color, symbol, font size, or bold type. The secretary of state shall establish standards for ballot design and layout consistent with this section and RCW 29A.04.611.

(3) The questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters at that election must appear after the instructions and before any offices.

(4) In a year that president and vice president appear on the general election ballot, the names of candidates for president and vice president for each political party must be grouped together with a single response position for a voter to indicate his or her choice.

~~((5) On a general election ballot, the candidate or candidates of)~~ The major political party that received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election must appear first ~~((following the appropriate office heading. The candidate or candidates of the))~~. Other major political parties ((will)) must follow according to the votes cast for their nominees for president at the last presidential election((, and)). Independent candidates and ~~((the candidate or candidates of all other))~~ minor parties ((will)) must follow major parties and be listed in the order of their qualification with the secretary of state.

Sec. 45. RCW 29A.36.170 and 2005 c 2 s 6 are each reenacted and amended to read as follows:

(1) For any office for which a primary was held, only the names of the top two candidates will appear on the general election ballot; the name of the candidate who received the greatest number of votes will appear first and the candidate who received the next greatest number of votes will appear second. No candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary, if a primary was conducted. On the ballot at the general election for an office for which no primary was held, the names of the candidates shall be listed in the order determined under RCW ~~((29A.36.130))~~ 29A.36.131.

(2) For the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, judge of the district court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that office or position, only the name of that candidate may be printed for that position on the ballot at the general election.

Sec. 46. RCW 29A.36.201 and 2004 c 271 s 171 are each amended to read as follows:

The names of ~~((the persons))~~ candidates certified ~~((as nominees))~~ by the secretary of state or the county canvassing board as qualified to appear on the general election shall be printed on the general election ballot ~~((at the ensuing election))~~.

If a primary for an office was held, no name of any candidate ((whose nomination at a primary is required by law)) shall be placed upon the ballot at a general or special election unless it appears upon the certificate of either (1) the secretary of state, or (2) the county canvassing board ~~((, or (3) a minor party convention or the state or county central committee of a major political party to fill a vacancy on its ticket under RCW 29A.28.021)).~~

Excluding the office of precinct committee officer or a temporary elected position such as a charter review board member or freeholder, a candidate's name shall not appear on a ballot more than once ~~((upon a ballot for a position regularly nominated or elected at the same election))~~.

Sec. 47. RCW 29A.40.010 and 2011 c 10 s 35 are each amended to read as follows:

Each active registered voter of the state, overseas voter, and service voter shall automatically be issued a mail ballot for each general election, special election, or primary. Overseas voters and service voters are authorized to cast the same ballots, including those for special elections, as a registered voter of the state would receive under this chapter. Each active registered voter shall continue to receive a ballot by mail until the death or disqualification of the voter, cancellation of the voter's registration, or placing the voter on inactive status.

Sec. 48. RCW 29A.40.070 and 2011 c 349 s 16 and 2011 c 10 s 38 are each reenacted and amended to read as follows:

(1) Except where a recount or litigation is pending, the county auditor must mail ballots to each voter at least eighteen days before each primary or election, and as soon as possible for all subsequent registration changes.

(2) Except where a recount or litigation is pending, the county auditor must mail ballots to each service and overseas voter at least thirty days before each ~~((primary election or))~~ special election, and at least forty-five days before each primary or general election, or any special election that involves federal office. A request for a ballot made by an overseas or service voter after that day must be processed immediately.

(3) A registered voter may obtain a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter. The voter may obtain the ballot by telephone request, by mail, electronically, or in person. The county auditor shall keep a record of each request for a replacement ballot.

(4) Each county auditor shall certify to the office of the secretary of state the dates the ballots were mailed, or the reason and date the ballots will be mailed if the ballots were not mailed timely.

(5) Failure to mail ballots as prescribed in this section does not by itself provide a basis for an election contest or other legal challenge to the results of a primary, general election, or special election.

Sec. 49. RCW 29A.40.091 and 2011 c 349 s 17, 2011 c 348 s 3, 2011 c 182 s 1, and 2011 c 10 s 39 are each reenacted and amended to read as follows:

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

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

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

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

Sec. 50. RCW 29A.52.112 and 2005 c 2 s 7 are each amended to read as follows:

(1) A primary is a first stage in the public process by which voters elect candidates to public office.

(2) Whenever candidates for a partisan office are to be elected, the general election must be preceded by a primary conducted under this chapter. Based upon votes cast at the primary, the top two candidates will be certified as qualified to appear on the general election ballot, unless only one candidate qualifies as provided in RCW 29A.36.170.

(3) For partisan office, if a candidate has expressed a party (~~((or independent))~~) preference on the declaration of candidacy, then that preference will be shown after the name of the candidate on the primary and general election ballots (~~((by appropriate abbreviation))~~) as set forth in rules of the secretary of state. A candidate may choose to express no party (~~((or independent))~~) preference. Any party (~~((or independent))~~) preferences are shown for the information of voters only and may in no way limit the options available to voters.

Sec. 51. RCW 29A.52.210 and 2003 c 111 s 1305 are each amended to read as follows:

All city and town primaries shall be nonpartisan. Primaries for special purpose districts, except those districts that require ownership of property within the district as a prerequisite to voting, shall be nonpartisan. City, town, and district primaries shall be held as provided in RCW (~~((29A.04.310))~~) 29A.04.311.

The purpose of this section is to establish the holding of a primary, subject to the exemptions in RCW 29A.52.220, as a uniform procedural requirement to the holding of city, town, and district elections. These provisions supersede any and all other statutes, whether general or special in nature, having different election requirements.

Sec. 52. RCW 29A.52.321 and 2004 c 271 s 146 are each amended to read as follows:

No later than the day following the certification of the returns of any primary, the secretary of state shall certify to the appropriate county auditors the names of all (~~((persons nominated for offices at a primary, or at an independent~~

~~candidate or minor party convention))~~ candidates qualified to appear on the general election ballot.

Sec. 53. RCW 29A.52.355 and 2011 c 10 s 45 are each amended to read as follows:

(1) Notice for any state, county, district, or municipal primary or election, whether special or general, must be given by the county auditor between five and fifteen days prior to the deadline for mail-in registrations. The notice must be published in one or more newspapers of general circulation and must contain, at a minimum, the last date to register online or through the mail, the last date to transfer or update an existing registration, the last date to register in person for first-time voters, information on where a person can register, the type of election, the date of the election, how a voter can obtain a ballot, a list of all jurisdictions involved in the election, including positions and short titles for ballot measures appearing on the ballot, and the times and dates of any public meetings associated with the election. The notice shall also include where additional information regarding the election may be obtained. The notice of a primary held in an even-numbered year must indicate that the office of precinct committee officer is on the ballot. This is the only notice required for a state, county, district, or municipal primary or special or general election.

(2) If the county or city chooses to mail a local voters' pamphlet as described in RCW 29A.32.210 to each residence, the notice required in this section need only include the last date to register online or through the mail, the last date to transfer or update an existing registration, the last date to register in person for first-time voters, information on where a person can register, and the times and dates of any public meetings associated with the election.

Sec. 54. RCW 29A.56.040 and 2007 c 385 s 1 are each amended to read as follows:

(1) Except where necessary to accommodate the national or state rules of a major political party or where this chapter specifically provides otherwise, the presidential primary must be conducted in substantially the same manner as a state (~~(partisan)~~) primary under this title.

(2) (~~Except as provided under this chapter or by rule of the secretary of state adopted under RCW 29A.04.620,)~~ The arrangement and form of presidential primary ballots must be ((consistent with RCW 29A.52.151)) established by administrative rule adopted under RCW 29A.04.620. Only the candidates who have qualified under RCW 29A.56.030 may appear on the ballots.

(3) Each party's ballot or portion of the ballot must list alphabetically the names of all candidates for the office of president. The ballot must clearly indicate the political party of each candidate. Each ballot must include a blank space to allow the voter to write in the name of any other candidate.

(4) A presidential primary ballot with votes for more than one candidate is void, and notice to this effect, stated in clear, simple language and printed in large type, must appear on the face of each presidential primary ballot or on or about each voting device.

Sec. 55. RCW 29A.56.210 and 2003 c 111 s 1417 are each amended to read as follows:

If, at the conclusion of the verification and canvass, it is found that a petition for recall bears the required number of signatures of certified legal voters, the officer with whom the petition is filed shall promptly certify the petitions as sufficient and fix a date for the special election to determine whether or not the officer charged shall be recalled and discharged from office. The special election shall be held not less than forty-five nor more than ~~((sixty))~~ ninety days from the certification and, whenever possible, on one of the dates provided in RCW 29A.04.330, but no recall election may be held between the date of the primary and the date of the general election in any calendar year. Notice shall be given in the manner as required by law for special elections in the state or in the political subdivision, as the case may be.

Sec. 56. RCW 29A.56.320 and 2009 c 264 s 3 are each amended to read as follows:

In the year in which a presidential election is held, each major political party and each minor political party or independent candidate convention (~~held under chapter 29A.20 RCW~~) that nominates candidates for president and vice president of the United States shall nominate presidential electors for this state. The party or convention shall file with the secretary of state a certificate signed by the presiding officer of the convention at which the presidential electors were chosen, listing the names and addresses of the presidential electors. Each presidential elector shall execute and file with the secretary of state a pledge that, as an elector, he or she will vote for the candidates nominated by that party. The names of presidential electors shall not appear on the ballots. The votes cast for candidates for president and vice president of each political party shall be counted for the candidates for presidential electors of that political party; however, if the interstate compact entitled the "agreement among the states to elect the president by national popular vote," as set forth in RCW 29A.56.300, governs the appointment of the presidential electors for a presidential election as provided in clause 9 of Article III of that compact, then the final appointment of presidential electors for that presidential election shall be in accordance with that compact.

Sec. 57. RCW 29A.56.360 and 2003 c 111 s 1429 are each amended to read as follows:

In a year in which the president and vice president of the United States are to be elected, the secretary of state shall include in the certification prepared under RCW (~~29A.52.320~~) 29A.52.321 the names of all candidates for president and vice president who, (~~at least fifty days before the general election~~) no later than the third Tuesday of August, have certified a slate of electors to the secretary of state under RCW 29A.56.320 and have been nominated either (1) by a major political party, as certified by the appropriate authority under party rules, or (2) by a minor party or as independent candidates (~~under chapter 29A.20 RCW~~). Major or minor political parties or independent presidential candidates may substitute a different candidate for vice president for the one whose name appears on the party's certification or nominating petition at any time before (~~forty-five~~) seventy-five days before the general election, by certifying the change to the secretary of state. Substitutions must not be permitted to delay the printing of either ballots or a voters' pamphlet. Substitutions are valid only if submitted under oath and signed by the same

individual who originally certified the nomination, or his or her documented successor, and only if the substitute candidate consents in writing.

Sec. 58. RCW 29A.56.490 and 2011 c 10 s 46 are each amended to read as follows:

The election officials shall count and determine the number of votes cast for each individual; and shall also count and determine the aggregate number of votes cast for all candidates whose names appear under each of the respective headings. Where more than the required number have been voted for, the ballot must be rejected. The vote must be canvassed in each county by the county canvassing board, and certificate of results must (~~within fifteen days after the election~~) be transmitted to the secretary of state. Upon receiving the certificate, the secretary of state may require precinct returns from any county to be forwarded for the secretary's examination.

Where a district embraces precincts of more than one county, the secretary of state shall combine the votes from all the precincts included in each district. The delegates elected in each district will be the number of candidates corresponding to the number of state representatives from the district, who receive the highest number of votes in the group (either "for" or "against") that received an aggregate number of votes for all candidates in the group greater than the aggregate number of votes for all the candidates in the other group. The secretary of state shall issue certificates of election to the delegates so elected.

Sec. 59. RCW 29A.60.010 and 2003 c 111 s 1501 are each amended to read as follows:

All elections, whether special or general, held under RCW (~~29A.04.320~~) 29A.04.321 and 29A.04.330 must be conducted by the county auditor as ex officio county supervisor of elections and, except as provided in RCW 29A.60.240, the returns canvassed by the county canvassing board.

Sec. 60. RCW 29A.60.060 and 2011 c 10 s 49 are each amended to read as follows:

After the close of (~~the~~) voting (~~center~~) at 8:00 p.m., the county auditor must directly load the results from any direct recording electronic memory pack into the central accumulator.

Sec. 61. RCW 29A.60.110 and 2011 c 10 s 50 are each amended to read as follows:

Immediately after their tabulation, all ballots counted at a ballot counting center must be sealed in containers that identify the primary or election and be retained for at least sixty days or according to federal law, whichever is longer.

In the presence of major party observers who are available, ballots may be removed from the sealed containers at the elections department and consolidated into one sealed container for storage purposes. The containers may only be opened by the canvassing board as part of the canvass, (~~or~~) to conduct recounts, (~~or under RCW 29A.60.170(3)~~) to conduct a random check under RCW 29A.60.170, or by order of the superior court in a contest or election dispute. If the canvassing board opens a ballot container, it shall make a full record of the additional tabulation or examination made of the ballots. This record must be added to any other record of the canvassing process in that county.

Sec. 62. RCW 29A.60.160 and 2011 c 10 s 53 are each amended to read as follows:

(1) The county auditor, as delegated by the county canvassing board, shall process ballots and canvass the votes cast at that primary or election on a daily basis in counties with a population of seventy-five thousand or more, or at least every third day for counties with a population of less than seventy-five thousand, if the county auditor is in possession of more than five hundred ballots that have yet to be canvassed.

(2) Saturdays, Sundays, and legal holidays are not counted for purposes of this section.

(3) In order to protect the secrecy of a ballot, the county auditor may use discretion to decide when to process (~~absentee~~) ballots and canvass the votes.

(4) Tabulation results must be made available to the public immediately upon completion of the canvass.

Sec. 63. RCW 29A.60.165 and 2011 c 10 s 54 are each amended to read as follows:

(1) If the voter neglects to sign the ballot declaration, the auditor shall notify the voter by first-class mail and advise the voter of the correct procedures for completing the unsigned declaration. If the ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first-class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information.

(2)(a) If the handwriting of the signature on a ballot declaration is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by first-class mail, enclosing a copy of the declaration, and advise the voter of the correct procedures for updating his or her signature on the voter registration file. If the ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first-class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information.

(b) If the signature on a ballot declaration is not the same as the signature on the registration file because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(c) If the signature on a ballot declaration is not the same as the signature on the registration file because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(3) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(4) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter (~~signed the envelope, a copy of the envelope, a new registration form, or a change of name form~~) submitted updated information. That record is a public record under

chapter 42.56 RCW and may be disclosed to interested parties on written request.

Sec. 64. RCW 29A.60.240 and 2011 c 349 s 22 are each amended to read as follows:

The secretary of state shall, as soon as possible but in any event not later than seventeen days following the primary, canvass and certify the returns of all primary elections as to candidates for statewide offices, United States senators and representatives in Congress, and all ~~((other))~~ legislative and judicial candidates whose district extends beyond the limits of a single county.

Sec. 65. RCW 29A.60.250 and 2005 c 243 s 18 are each amended to read as follows:

As soon as the returns have been received from all the counties of the state, but not later than the thirtieth day after the election, the secretary of state shall canvass and certify the returns of the general election as to candidates for statewide offices, the United States senate, congress, and all ~~((other))~~ legislative and judicial candidates whose districts extend beyond the limits of a single county. The secretary of state shall transmit a copy of the certification to the governor, president of the senate, and speaker of the house of representatives.

Sec. 66. RCW 29A.64.021 and 2005 c 243 s 19 are each amended to read as follows:

(1) If the official canvass of all of the returns for any office at any primary or election reveals that the difference in the number of votes cast for a candidate apparently ~~((nominated))~~ qualified for the general election ballot or elected to any office, and the number of votes cast for the closest apparently defeated opponent is less than two thousand votes and also less than one-half of one percent of the total number of votes cast for both candidates, the county canvassing board shall conduct a recount of all votes cast on that position.

(a) Whenever such a difference occurs in the number of votes cast for candidates for a position the declaration of candidacy for which was filed with the secretary of state, the secretary of state shall, within three business days of the day that the returns of the primary or election are first certified by the canvassing boards of those counties, direct those boards to recount all votes cast on the position.

(b)(i) For statewide elections, if the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one thousand votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(ii) For elections not included in (b)(i) of this subsection, if the difference in the number of votes cast for the apparent winner and the closest apparently defeated opponent is less than one hundred fifty votes and also less than one-fourth of one percent of the total number of votes cast for both candidates, the votes shall be recounted manually or as provided in subsection (3) of this section.

(2) A mandatory recount shall be conducted in the manner provided by RCW 29A.64.030, 29A.64.041, and 29A.64.061. No cost of a mandatory recount may be charged to any candidate.

(3) The apparent winner and closest apparently defeated opponent for an office for which a manual recount is required under subsection (1)(b) of this section may select an alternative method of conducting the recount. To select such an alternative, the two candidates shall agree to the alternative in a signed, written statement filed with the election official for the office. The recount shall be conducted using the alternative method if: It is suited to the balloting system that was used for casting the votes for the office; it involves the use of a vote tallying system that is approved for use in this state by the secretary of state; and the vote tallying system is readily available in each county required to conduct the recount. If more than one balloting system was used in casting votes for the office, an alternative to a manual recount may be selected for each system.

Sec. 67. RCW 29A.64.030 and 2011 c 349 s 24 are each amended to read as follows:

An application for a recount shall state the office or ballot measure for which a recount is requested, and whether the request is for all precincts or only a portion of the ~~((votes cast))~~ precincts in that jurisdiction ~~((of that office))~~. The person filing an application for a manual recount shall, at the same time, deposit with the county canvassing board or secretary of state, in cash or by certified check, a sum equal to twenty-five cents for each ballot cast in the jurisdiction or portion of the jurisdiction for which the recount is requested as security for the payment of any costs of conducting the recount. If the application is for a machine recount, the deposit must be equal to fifteen cents for each ballot. These charges shall be determined by the county canvassing board or boards under RCW 29A.64.081.

The county canvassing board shall determine the date, time, and place or places at which the recount will be conducted. Not less than one day before the date of the recount, the county auditor shall notify the applicant or affected parties and, if the recount involves an office, to any person for whom votes were cast for that office of the date, time, and place of the recount. Each person entitled to receive notice of the recount may attend, witness the recount, and be accompanied by counsel.

Proceedings of the canvassing board are public under chapter 42.30 RCW. Subject to reasonable and equitable guidelines adopted by the canvassing board, all interested persons may attend and witness a recount.

Sec. 68. RCW 29A.64.050 and 2003 c 111 s 1605 are each amended to read as follows:

When a partial recount of votes cast for an office or issue changes the result of the election, the canvassing board or the secretary of state, if the office or issue is being recounted at his or her direction, shall order a complete recount of all ballots cast for the office or issue for the jurisdiction in question.

This recount will be conducted in a manner consistent with RCW ~~((29A.64.020))~~ 29A.64.021.

Sec. 69. RCW 29A.64.061 and 2005 c 243 s 21 are each amended to read as follows:

(1) Upon completion of the canvass of a recount, the canvassing board shall prepare and certify an amended abstract showing the votes cast in each precinct for which the recount was conducted. Copies of the amended abstracts must be

transmitted to the same officers who received the abstract on which the recount was based.

(2) If the (~~(nomination, election,)~~ office or issue for which the recount was conducted was (~~(submitted only to the voters of a county)~~) filed with the county auditor, the canvassing board shall file the amended abstract with the original results of that election or primary.

(3) If the (~~(nomination, election,)~~ office or issue for which a recount was conducted was (~~(submitted to the voters of more than one county)~~) filed with the secretary of state, the secretary of state shall canvass the amended abstracts and shall file an amended abstract with the original results of that election. The secretary of state may require that the amended abstracts be certified by each canvassing board on a uniform date.

(4) An amended abstract certified under this section supersedes any prior abstract of the results for the same offices or issues at the same primary or election.

Sec. 70. RCW 29A.64.090 and 2003 c 111 s 1609 are each amended to read as follows:

When the official canvass of returns of any election reveals that the difference in the number of votes cast for the approval of a statewide measure and the number of votes cast for the rejection of such measure is less than two thousand votes and also less than one-half of one percent of the total number of votes cast on such measure, the secretary of state shall direct that a recount of all votes cast on such measure be made on such measure, in the manner provided by RCW (~~(29A.64.040)~~) 29A.64.041 and (~~(29A.64.060)~~) 29A.64.061, and the cost of such recount will be at state expense.

Sec. 71. RCW 29A.68.011 and 2011 c 349 s 25 are each amended to read as follows:

Any justice of the supreme court, judge of the court of appeals, or judge of the superior court in the proper county shall, by order, require any person charged with error, wrongful act, or neglect to forthwith correct the error, desist from the wrongful act, or perform the duty and to do as the court orders or to show cause forthwith why the error should not be corrected, the wrongful act desisted from, or the duty or order not performed, whenever it is made to appear to such justice or judge by affidavit of an elector that:

(1) An error or omission has occurred or is about to occur in printing the name of any candidate on official ballots; or

(2) An error other than as provided in subsections (1) and (3) of this section has been committed or is about to be committed in printing the ballots; or

(3) The name of any person has been or is about to be wrongfully placed upon the ballots; or

(4) A wrongful act other than as provided for in subsections (1) and (3) of this section has been performed or is about to be performed by any election officer; or

(5) Any neglect of duty on the part of an election officer other than as provided for in subsections (1) and (3) of this section has occurred or is about to occur; or

(6) An error or omission has occurred or is about to occur in the official certification of the election.

An affidavit of an elector under subsections (1) and (3) of this section when relating to a primary election must be filed with the appropriate court no later than two days following the closing of the filing period for such office and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsections (1) and (3) of this section when relating to a general election must be filed with the appropriate court no later than three days following the official certification of the primary election returns, or official certification of candidates qualified to appear on the general election ballot, whichever is later, and shall be heard and finally disposed of by the court not later than five days after the filing thereof. An affidavit of an elector under subsection (6) of this section shall be filed with the appropriate court no later than ten days following the official certification of the election as provided in RCW 29A.60.190, 29A.60.240, or 29A.60.250 or, in the case of a recount, ten days after the official certification of the amended abstract as provided in RCW 29A.64.061.

Sec. 72. RCW 29A.68.020 and 2011 c 10 s 64 are each amended to read as follows:

Any of the following causes may be asserted by a registered voter to challenge the right to assume office of a candidate declared elected to that office:

(1) For misconduct on the part of any (~~member of any precinct~~) election (~~board~~) officer involved therein;

(2) Because the person whose right is being contested was not, at the time the person was declared elected, eligible to that office;

(3) Because the person whose right is being contested was, previous to the election, convicted of a felony by a court of competent jurisdiction, the conviction not having been reversed nor the person's civil rights restored after the conviction;

(4) Because the person whose right is being contested gave a bribe or reward to a voter or to an election officer for the purpose of procuring the election, or offered to do so;

(5) On account of illegal votes.

(a) Illegal votes include but are not limited to the following:

(i) More than one vote cast by a single voter;

(ii) A vote cast by a person disqualified under Article VI, section 3 of the state Constitution.

(b) Illegal votes do not include votes cast by improperly registered voters who were not properly challenged under RCW 29A.08.810 and 29A.08.820.

All election contests must proceed under RCW 29A.68.011.

Sec. 73. RCW 29A.72.080 and 2003 c 111 s 1809 are each amended to read as follows:

Any persons, including the attorney general or either or both houses of the legislature, dissatisfied with the ballot title or summary for a state initiative or referendum may, within five days from the filing of the ballot title in the office of the secretary of state, appeal to the superior court of Thurston county by petition setting forth the measure, the ballot title or summary, and their objections to the ballot title or summary and requesting amendment of the ballot title or summary by the court. Saturdays, Sundays, and legal holidays are not counted in calculating the time limits contained in this section.

A copy of the petition on appeal together with a notice that an appeal has been taken shall be served upon the secretary of state, upon the attorney general, and upon the person proposing the measure if the appeal is initiated by someone other than that person. Upon the filing of the petition on appeal or at the time to which the hearing may be adjourned by consent of the appellant, the court shall accord first priority to examining the proposed measure, the ballot title or summary, and the objections to that ballot title or summary, may hear arguments, and shall, within five days, render its decision and file with the secretary of state a certified copy of such ballot title or summary as it determines will meet the requirements of RCW 29A.72.060. The decision of the superior court shall be final. Such appeal shall be heard without costs to either party.

Sec. 74. RCW 29A.72.130 and 2005 c 239 s 3 are each amended to read as follows:

Petitions ordering that acts or parts of acts passed by the legislature be referred to the people at the next ensuing general election, or special election ordered by the legislature, must be substantially in the following form:

The warning prescribed by RCW 29A.72.140; followed by:

PETITION FOR REFERENDUM

To the Honorable, Secretary of State of the State of Washington:

We, the undersigned citizens and legal voters of the State of Washington, respectfully order and direct that Referendum Measure No., filed to revoke a (or part or parts of a) bill that (concise statement required by RCW ((~~29A.36.074~~) 29A.72.050) and that was passed by the legislature of the State of Washington at the last regular (special) session of said legislature, shall be referred to the people of the state for their approval or rejection at the regular (special) election to be held on the . . . day of November, (year); and each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the State of Washington, in the city (or town) and county written after my name, my residence address is correctly stated, and I have knowingly signed this petition only once.

The following declaration must be printed on the reverse side of the petition:

I,, swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct. I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both.

RCW 9A.46.020 applies to any conduct constituting harassment against a petition signature gatherer. This penalty does not preclude the victim from seeking any other remedy otherwise available under law.

The petition must include a place for each petitioner to sign and print his or her name, and the address, city, and county at which he or she is registered to vote.

Sec. 75. RCW 29A.72.250 and 2008 c 1 s 10 are each amended to read as follows:

If a referendum or initiative petition for submission of a measure to the people is found sufficient, the secretary of state shall at the time and in the manner that he or she certifies (~~(for)~~) to the county auditors of the various counties the names of candidates for state and district officers certify to each county auditor the serial numbers and ballot titles of the several initiative and referendum measures and serial numbers and short descriptions of measures submitted for an advisory vote of the people to be voted upon at the next ensuing general election or special election ordered by the legislature.

Sec. 76. RCW 29A.72.290 and 2008 c 1 s 11 are each amended to read as follows:

The county auditor of each county shall print on the official ballots for the election at which initiative and referendum measures and measures for an advisory vote of the people are to be submitted to the people for their approval or rejection, the serial numbers and ballot titles certified by the secretary of state and the serial numbers and short descriptions of measures for an advisory vote of the people. They must appear under separate headings in the order of the serial numbers as follows:

(1) (~~(Measures proposed for submission to the people by initiative petition will be under the heading, "Proposed by Initiative Petition")~~) Initiatives to the people;

(2) (~~(Bills passed by the legislature and ordered referred to the people by referendum petition will be under the heading, "Passed by the Legislature and Ordered Referred by Petition")~~) Referendum measures;

(3) (~~(Bills passed and referred to the people by the legislature will be under the heading, "Proposed to the People by the Legislature")~~) Referendum bills;

(4) (~~(Measures proposed to the legislature and rejected or not acted upon will be under the heading, "Proposed to the Legislature and Referred to the People")~~) Initiatives to the legislature;

(5) (~~(Measures proposed to the legislature and alternative measures passed by the legislature in lieu thereof will be under the heading, "Initiated by Petition and Alternative by Legislature")~~) Initiatives to the legislature and legislative alternatives;

(6) (~~(Measures for an advisory vote of the people under RCW 29A.72.040 will be under the heading, "Advisory Vote of the People.")~~) Advisory votes;

(7) Proposed constitutional amendments.

Sec. 77. RCW 29A.76.020 and 2003 c 111 s 1902 are each amended to read as follows:

(~~(+)~~) The legislative authority of each county and each city, town, and special purpose district which lies (~~(entirely)~~) within the county shall provide the county auditor accurate information describing its geographical boundaries and the boundaries of its director, council, or commissioner districts and shall ensure that the information provided to the auditor is kept current.

~~((2) A city, town, or special purpose district that lies in more than one county shall provide the secretary of state accurate information describing its geographical boundaries and the boundaries of its director, council, or commissioner districts and shall ensure that the information provided to the secretary is kept current. The secretary of state shall promptly transmit to each county in which a city, town, or special purpose district is located information regarding the boundaries of that jurisdiction which is provided to the secretary.))~~

Sec. 78. RCW 29A.76.030 and 2003 c 111 s 1903 are each amended to read as follows:

If the boundaries of any city, township, or rural precinct are changed in the manner provided by law, the county auditor shall ~~((transfer))~~ update the registration ~~((cards))~~ records of every registered voter whose place of residence is affected thereby ~~((to the files of the proper precinct, noting thereon the name or number of the new precinct, or change the addresses, the precinct names or numbers, and the special district designations for those registered voters on the voter registration lists of the county)).~~ It shall not be necessary for any registered voter whose ~~((residence))~~ registration has been changed from one precinct to another, by a change of boundary, to apply to the ~~((registration officer))~~ county auditor for a transfer of registration. The county auditor shall mail a notice to each ~~((registrant in the new precinct a notice that his or her precinct has been changed from to, and that thereafter the registrant will be entitled to vote in the new precinct, giving the name or number))~~ registered voter.

Sec. 79. RCW 29A.80.020 and 2003 c 111 s 2002 are each amended to read as follows:

The state committee of each major political party consists of one committeeman and one committeewoman from each county elected by the county central committee at its organization meeting. It must have a chair and vice chair of opposite sexes. This committee shall meet during January of each odd-numbered year for the purpose of organization at a time and place designated by a notice mailed at least one week before the date of the meeting to all ~~((the newly elected))~~ new state committeemen and committeewomen by the authorized officers of the retiring committee. At its organizational meeting it shall elect its chair and vice chair, and such officers as its bylaws may provide, and adopt bylaws, rules, and regulations. It may:

(1) Call conventions at such time and place and under such circumstances and for such purposes as the call to convention designates. The manner, number, and procedure for selection of state convention delegates is subject to the committee's rules and regulations duly adopted;

(2) Provide for the election of delegates to national conventions;

~~(3) ((Fill vacancies on the ticket for any federal or state office to be voted on by the electors of more than one county;~~

~~(4))~~ Provide for the nomination of presidential electors; and

~~((5))~~ (4) Perform all functions inherent in such an organization.

Notwithstanding any provision of this chapter, the committee may not adopt rules governing the conduct of the actual proceedings at a party state convention.

Sec. 80. RCW 29A.84.210 and 2003 c 111 s 2109 are each amended to read as follows:

Every officer who willfully violates any of the provisions of chapter 29A.72 RCW or RCW 29A.32.010 through ~~((29A.32.120))~~ 29A.32.121, for the violation of which no penalty is herein prescribed, or who willfully fails to comply with the provisions of chapter 29A.72 RCW or RCW 29A.32.010 through ~~((29A.32.120))~~ 29A.32.121, is guilty of a gross misdemeanor punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

Sec. 81. RCW 29A.84.261 and 2004 c 271 s 184 are each amended to read as follows:

The following apply to persons signing ~~((nominating))~~ filing fee petitions prescribed by RCW 29A.24.101:

(1) A person who signs a petition with any other than his or her name shall be guilty of a misdemeanor.

(2) A person shall be guilty of a misdemeanor if the person knowingly: Signs more than one petition for any single candidacy of any single candidate; signs the petition when he or she is not a legal voter; or makes a false statement as to his or her residence.

Sec. 82. RCW 29A.84.510 and 2011 c 10 s 69 are each amended to read as follows:

(1) During the voting period that begins eighteen days before and ends the day of a special election, general election, or primary, no person may~~(:)~~:

~~(a)~~ Within a voting center:

~~((a))~~ (i) Suggest or persuade or attempt to suggest or persuade any voter to vote for or against any candidate or ballot measure;

~~((b))~~ (ii) Circulate cards or handbills of any kind;

~~((c))~~ (iii) Solicit signatures to any kind of petition; or

~~((d))~~ (iv) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the voting center.

~~((2) No person may)~~ (b) Obstruct the doors or entries to a building in which a voting center or ballot drop location is located or prevent free access to and from any voting center or ballot drop location.

~~(2) Any sheriff, deputy sheriff, or municipal law enforcement officer shall ((prevent such obstruction))~~ stop the prohibited activity, and may arrest any person ~~((creating such obstruction))~~ engaging in the prohibited activity.

(3) Any violation of this section is a gross misdemeanor, punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021, and the person convicted may be ordered to pay the costs of prosecution.

Sec. 83. RCW 29A.84.520 and 2011 c 10 s 70 are each amended to read as follows:

Any election officer who does any electioneering at a voting center or ballot drop location during the voting period that begins eighteen days before and ends the day of a special election, general election, or primary~~(:)~~ is guilty of a misdemeanor, and upon conviction must be fined in any sum not exceeding one hundred dollars and pay the costs of prosecution.

Sec. 84. RCW 29A.84.711 and 2004 c 271 s 186 are each amended to read as follows:

Every person who:

(1) Knowingly and falsely issues a certificate of nomination or election; or
 (2) Knowingly provides false information on a minor party or independent candidate certificate (~~((which must be filed with an elections officer under chapter 29A.20 RCW,))~~) of nomination is guilty of a class C felony punishable under RCW 9A.20.021.

Sec. 85. RCW 29A.88.020 and 2003 c 111 s 2202 are each amended to read as follows:

(1) Within seven days after any recommendation by the president of the United States of a site in the state of Washington to be a high-level nuclear waste repository under 42 U.S.C. Sec. 10136, the governor shall set the date for a special statewide election to vote on disapproval of the selection of such site. The special election shall be (~~(no more than fifty)~~) held not less than forty-five nor more than ninety days after the date of the recommendation of the president of the United States.

(2) If either the governor or the legislature submits a notice of disapproval to the United States Congress within twenty-one days of the date of the recommendation by the president of the United States, then the governor is authorized to cancel the special election pursuant to subsection (1) of this section.

Sec. 86. RCW 29A.88.040 and 2003 c 111 s 2204 are each amended to read as follows:

The secretary of state shall promptly notify the county auditors of the date of the special election and certify to them the text of the ballot title for this special election. The general election laws shall apply to the election required by RCW 29A.88.020 to the extent that they are not inconsistent with this chapter. Statutory deadlines relating to certification, canvassing, and the voters' pamphlet may be modified for the election held pursuant to RCW 29A.88.020 by the secretary of state through emergency rules adopted under RCW (~~(29A.04.610)~~) 29A.04.611.

Sec. 87. RCW 35.17.020 and 1994 c 223 s 10 and 1994 c 119 s 1 are each reenacted and amended to read as follows:

(1) All regular elections in cities organized under the statutory commission form of government shall be held quadrennially in the odd-numbered years on the dates provided in RCW (~~(29.13.020)~~) 29A.04.330. However, after commissioners are elected at the next general election occurring in 1995 or 1997, regular elections in cities organized under a statutory commission form of government shall be held biennially at municipal general elections.

(2) The commissioners shall be nominated and elected at large. Their terms shall be for four years and until their successors are elected and qualified and assume office in accordance with RCW (~~(29.04.170)~~) 29A.20.040 (as recodified by this act). However, at the next regular election of a city organized under a statutory commission form of government, the terms of office of commissioners shall occur with the person who is elected as a commissioner receiving the least number of votes being elected to a two-year term of office and the other two persons who are elected being elected to four-year terms of office. Thereafter, commissioners shall be elected to four-year terms of office.

(3) Vacancies on a commission shall occur and shall be filled as provided in chapter 42.12 RCW(~~(, except that in every instance a person shall be elected to~~

~~fill the remainder of the unexpired term at the next general municipal election that occurs twenty-eight or more days after the occurrence of the vacancy)).~~

Sec. 88. RCW 42.12.040 and 2011 c 349 s 27 are each amended to read as follows:

(1) If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the first day of the regular filing period, the position must be open for filing during the regular filing period as provided in RCW 29A.24.171 and a successor shall be elected at the general election. Except during the last year of the term of office, if such a vacancy occurs on or after the first day of the regular filing period, the election of the successor shall occur at the next succeeding general election as provided in RCW 29A.24.171. The elected successor shall hold office for the remainder of the unexpired term. This section shall not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section.

(2) If a vacancy occurs in any legislative office or in any partisan county office after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor who is of the same party as the incumbent may commence once he or she has qualified as defined in RCW 29A.04.133 and shall continue through the term for which he or she was elected.

Sec. 89. RCW 42.12.070 and 2011 c 349 s 28 are each amended to read as follows:

A vacancy on an elected nonpartisan governing body of a special purpose district where property ownership is not a qualification to vote, a town, or a city other than a first-class city or a charter code city, shall be filled as follows unless the provisions of law relating to the special district, town, or city provide otherwise:

(1) Where one position is vacant, the remaining members of the governing body shall appoint a qualified person to fill the vacant position.

(2) Where two or more positions are vacant and two or more members of the governing body remain in office, the remaining members of the governing body shall appoint a qualified person to fill one of the vacant positions, the remaining members of the governing body and the newly appointed person shall appoint another qualified person to fill another vacant position, and so on until each of the vacant positions is filled with each of the new appointees participating in each appointment that is made after his or her appointment.

(3) If less than two members of a governing body remain in office, the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person or persons to the governing body until the governing body has two members.

(4) If a governing body fails to appoint a qualified person to fill a vacancy within ninety days of the occurrence of the vacancy, the authority of the governing body to fill the vacancy shall cease and the county legislative authority of the county in which all or the largest geographic portion of the city, town, or special district is located shall appoint a qualified person to fill the vacancy.

(5) If the county legislative authority of the county fails to appoint a qualified person within one hundred eighty days of the occurrence of the vacancy, the county legislative authority or the remaining members of the governing body of the city, town, or special district may petition the governor to appoint a qualified person to fill the vacancy. The governor may appoint a qualified person to fill the vacancy after being petitioned if at the time the governor fills the vacancy the county legislative authority has not appointed a qualified person to fill the vacancy.

(6) As provided in chapter 29A.24 RCW, each person who is appointed shall serve until a qualified person is elected at the next election at which a member of the governing body normally would be elected. ~~((If needed, special filing periods shall be authorized as provided in chapter 29A.24 RCW for qualified persons to file for the vacant office. A primary shall be held to qualify candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, a primary shall not be held and the person receiving the greatest number of votes shall be elected.))~~ The person elected shall take office immediately and serve the remainder of the unexpired term.

~~((If an election for the position that became vacant would otherwise have been held at this general election date, only one election to fill the position shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW 29A.04.133 and shall service both the remainder of the unexpired term and the succeeding term.))~~

Sec. 90. RCW 46.20.155 and 2009 c 369 s 42 are each amended to read as follows:

(1) Before issuing an original license or identicard or renewing a license or identicard under this chapter, the licensing agent shall determine if the applicant wants to register to vote or ~~((transfer))~~ update his or her voter registration by asking the following question:

"Do you want to register to vote or ~~((transfer))~~ update your voter registration?"

If the applicant chooses to register or ~~((transfer))~~ update a registration, the agent shall ask the following:

- (1) "Are you a United States citizen?"
- (2) "Are you or will you be eighteen years of age on or before the next election?"

If the applicant answers in the affirmative to both questions, the agent shall then submit the registration or ~~((transfer))~~ update. If the applicant answers in the negative to either question, the agent shall not submit a voter registration application.

(2) The department shall establish a procedure that substantially meets the requirements of subsection (1) of this section when permitting an applicant to renew a license or identicard by mail or by electronic commerce.

Sec. 91. RCW 29A.24.311 and 2012 c 89 s 2 are each amended to read as follows:

(1) Any person who desires to be a write-in candidate and have such votes counted at a primary or election may file a declaration of candidacy with the officer designated in RCW 29A.24.070 not later than the day ballots must be mailed according to RCW 29A.40.070. Declarations of candidacy for write-in candidates must be accompanied by a filing fee in the same manner as required of other candidates filing for the office as provided in RCW 29A.24.091.

(2) Votes cast for write-in candidates who have filed such declarations of candidacy (~~(and write-in votes for persons appointed by major political parties pursuant to RCW 29A.28.021)~~) need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number (~~(or political party)~~), if the manner in which the write-in is done does not make the office or position clear.

(3) No person may file as a write-in candidate where:

(a) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(b) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election (~~(, unless one or the other of the two filings is for the office of precinct committee person)~~);

(c) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless (~~(one of the two offices for which he or she is a candidate is precinct committee person)~~) the other office is precinct committee officer or a temporary elected position, such as charter review board member or freeholder;

(d) The office filed for is committee precinct officer.

(4) The declaration of candidacy shall be similar to that required by RCW 29A.24.031. No write-in candidate filing under this section may be included in any voter's pamphlet produced under chapter 29A.32 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29A.32 RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

Sec. 92. RCW 29A.36.040 and 2003 c 111 s 904 are each amended to read as follows:

Upon the filing of a ballot title under RCW 29A.36.020 (~~(or 29A.36.050)~~), the secretary of state shall provide notice of the exact language of the ballot title and summary to the chief clerk of the house of representatives, the secretary of the senate, and the prime sponsor of measure.

NEW SECTION. Sec. 93. (1) RCW 29A.04.240 is recodified as a section in chapter 29A.08 RCW.

(2) RCW 29A.20.010 and 29A.20.021 are recodified as sections in chapter 29A.24 RCW.

(3) RCW 29A.20.030 and 29A.20.040 are recodified as sections in chapter 29A.60 RCW.

(4) RCW 29A.20.111, 29A.20.121, 29A.20.131, 29A.20.151, 29A.20.161, 29A.20.171, 29A.20.181, and 29A.20.191 are each recodified as sections in chapter 29A.56 RCW.

(5) RCW 29A.28.071 is recodified as a section in chapter 29A.80 RCW.

(6) RCW 29A.76.030 is recodified as a section in chapter 29A.16 RCW.

NEW SECTION. Sec. 94. The following acts or parts of acts are each repealed:

(1) RCW 7.16.370 (Enforcement of term limits for elected officials) and 1993 c 1 s 9;

(2) RCW 29A.04.225 (Public disclosure reports) and 2005 c 274 s 248 & 2003 c 111 s 136;

(3) RCW 29A.08.250 (Furnished by secretary of state) and 2005 c 246 s 13, 2004 c 267 s 117, 2003 c 111 s 220, 2001 c 41 s 8, 1999 c 298 s 7, & 1993 c 434 s 8;

(4) RCW 29A.08.785 (Information services board, consultation) and 2004 c 267 s 140;

(5) RCW 29A.12.170 (Consultation with information services board) and 2004 c 267 s 321;

(6) RCW 29A.20.141 (Convention—Requirements for validity) and 2004 c 271 s 111;

(7) RCW 29A.20.201 (Declarations of candidacy required, exceptions—Payment of fees) and 2004 c 271 s 113;

(8) RCW 29A.24.030 (Declaration of candidacy) and 2005 c 2 s 9, 2003 c 111 s 603, 2002 c 140 s 1, & 1990 c 59 s 82;

(9) RCW 29A.24.120 (Date for withdrawal—Notice) and 2003 c 111 s 612;

(10) RCW 29A.28.011 (Major party ticket) and 2004 c 271 s 191;

(11) RCW 29A.28.021 (Death or disqualification—Correcting ballots—Counting votes already cast) and 2006 c 344 s 11 & 2004 c 271 s 192;

(12) RCW 29A.32.036 (Even year primary contents) and 2004 c 271 s 122;

(13) RCW 29A.32.050 (Notice of constitutional amendments and state measures—Explanatory statement) and 2009 c 415 s 4, 2003 c 111 s 805, 1967 c 96 s 3, & 1965 c 9 s 29.27.076;

(14) RCW 29A.36.050 (Statewide question—Ballot title—Formulation, ballot display) and 2003 c 111 s 905;

(15) RCW 29A.36.104 (Partisan primary ballots—Formats) and 2007 c 38 s 2 & 2004 c 271 s 126;

(16) RCW 29A.36.106 (Partisan primary ballots—Required statements) and 2007 c 38 s 3 & 2004 c 271 s 127;

(17) RCW 29A.36.171 (Nonpartisan candidates qualified for general election) and 2004 c 271 s 170;

(18) RCW 29A.36.191 (Partisan candidates qualified for general election) and 2004 c 271 s 133;

(19) RCW 29A.52.011 (Elections to fill unexpired term—No primary, when) and 2006 c 344 s 14 & 2004 c 271 s 172;

(20) RCW 29A.52.106 (Intent) and 2004 c 271 s 140;

(21) RCW 29A.52.111 (Application of chapter—Exceptions) and 2004 c 271 s 173;

(22) RCW 29A.52.116 (Application of chapter—Exceptions) and 2004 c 271 s 139;

(23) RCW 29A.52.130 (Blanket primary authorized) and 2003 c 111 s 1304;

(24) RCW 29A.52.141 (Instructions) and 2004 c 271 s 141;

- (25) RCW 29A.52.151 (Ballot format—Procedures) and 2007 c 38 s 4 & 2004 c 271 s 142;
- (26) RCW 29A.53.010 (Finding—Intent) and 2005 c 153 s 1;
- (27) RCW 29A.53.020 (Participant qualifications, procedures, report) and 2005 c 153 s 2;
- (28) RCW 29A.53.030 (Definitions) and 2005 c 153 s 3;
- (29) RCW 29A.53.040 (Application of election laws) and 2005 c 153 s 4;
- (30) RCW 29A.53.050 (Tabulation of ballots—Counting stages) and 2005 c 153 s 5;
- (31) RCW 29A.53.060 (Voting conditions and limitations) and 2005 c 153 s 6;
- (32) RCW 29A.53.070 (Local option authorized) and 2005 c 153 s 7;
- (33) RCW 29A.53.080 (Ballot specifications and directions to voters) and 2005 c 153 s 8;
- (34) RCW 29A.53.090 (Changes in voting devices and counting methods) and 2005 c 153 s 9;
- (35) RCW 29A.53.900 (Expiration date) and 2005 c 153 s 13;
- (36) RCW 29A.53.901 (Captions not law—2005 c 153) and 2005 c 153 s 16;
- (37) RCW 29A.53.902 (Severability—2005 c 153) and 2005 c 153 s 17;
- (38) RCW 29A.80.011 (Authority—Generally) and 2004 c 271 s 183;
- (39) RCW 44.04.015 (Term limits) and 1993 c 1 s 3; and
- (40) RCW 49.28.120 (Employer's duty to provide time to vote) and 1987 c 296 s 1.

NEW SECTION, Sec. 95. 2009 c 369 s 27 is repealed.

Passed by the Senate March 12, 2013.

Passed by the House April 3, 2013.

Approved by the Governor April 17, 2013, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 17, 2013.

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

"I am returning herewith, without my approval as to Section 5, Substitute Senate Bill 5518 entitled:

"AN ACT Relating to making nonsubstantive changes to election laws."

This bill was introduced by request of the Secretary of State to make technical changes to our election laws. The bill removes outdated language and statutory citations that are no longer relevant with the state's adoption of the top-two primary system and amends state election laws to conform to changes in federal law. Section 5 of the bill contains a change to a definition that could adversely impact minor political parties and is not in keeping with the nonsubstantive purposes of this Act. The Secretary of State agrees that keeping the current definition is preferable.

For these reasons, I have vetoed Section 5 of Substitute Senate Bill 5518.

With the exception of Section 5, Substitute Senate Bill No. 5518 is approved."

CHAPTER 12

[Substitute Senate Bill 5524]

PHARMACIES—PRESCRIPTIONS—OUT-OF-STATE PHYSICIAN ASSISTANTS

AN ACT Relating to authorizing Washington pharmacies to fill prescriptions written by physician assistants in other states; and reenacting and amending RCW 69.41.030 and 69.50.101.

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

Sec. 1. RCW 69.41.030 and 2011 1st sp.s. c 15 s 79 and 2011 c 336 s 837 are each reenacted and amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, a licensed physician assistant, a licensed osteopathic physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

Sec. 2. RCW 69.50.101 and 2013 c 3 s 2 (Initiative Measure No. 502) and 2012 c 8 s 1 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(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 state board of pharmacy.

(d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or board rules.

(e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of

the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Immediate precursor" means a substance:

(1) that the state board of pharmacy 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.

(o) "Isomer" means an optical isomer, but in (~~RCW 69.50.101~~) subsection (x)(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.

(p) "Lot" means a definite quantity of marijuana, 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.

(q) "Lot number" shall 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, useable marijuana, or marijuana-infused product.

(r) "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.

(s) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation

of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(t) "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

(u) "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(v) "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

(w) "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

(x) "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).

(y) "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.

(z) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(aa) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(bb) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(cc) "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 quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(dd) "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.

(ee) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(ff) "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

(gg) "Secretary" means the secretary of health or the secretary's designee.

(hh) "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.

(ii) "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.

(jj) "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.

(kk) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

(ll) "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a Schedule III-V controlled substance between an authorized practitioner and a pharmacy or the transfer of prescription information for a controlled substance from one pharmacy to another pharmacy.

Passed by the Senate March 4, 2013.

Passed by the House April 3, 2013.

Approved by the Governor April 17, 2013.

Filed in Office of Secretary of State April 17, 2013.

CHAPTER 13

[Senate Bill 5558]

HOUSING FINANCE COMMISSION—DOWN PAYMENT ASSISTANCE

AN ACT Relating to down payment assistance for single-family homeownership; amending RCW 43.180.050; and declaring an emergency.

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

Sec. 1. RCW 43.180.050 and 1986 c 264 s 1 are each amended to read as follows:

(1) In addition to other powers and duties prescribed in this chapter, and in furtherance of the purposes of this chapter to provide decent, safe, sanitary, and affordable housing for eligible persons, the commission is empowered to:

- (a) Issue bonds in accordance with this chapter;
- (b) Invest in, purchase, or make commitments to purchase or take assignments from mortgage lenders of mortgages or mortgage loans;
- (c) Make loans to or deposits with mortgage lenders for the purpose of making mortgage loans; ~~((and))~~
- (d) Make loans for down payment assistance to home buyers in conjunction with other commission programs; and
- (e) Participate fully in federal and other governmental programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements, including such actions as the commission considers appropriate in order to have the interest payments on its bonds and other obligations treated as tax exempt under the code.

(2) The commission shall establish eligibility standards for eligible persons, considering at least the following factors:

- (a) Income;
- (b) Family size;
- (c) Cost, condition, and energy efficiency of available residential housing;
- (d) Availability of decent, safe, and sanitary housing;
- (e) Age or infirmity; and

(f) Applicable federal, state, and local requirements.

The state auditor shall audit the books, records, and affairs of the commission annually to determine, among other things, if the use of bond proceeds complies with the general plan of housing finance objectives including compliance with the objective for the use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 5, 2013.

Passed by the House April 3, 2013.

Approved by the Governor April 17, 2013.

Filed in Office of Secretary of State April 17, 2013.

CHAPTER 14

[Engrossed Senate Bill 5620]

K-12 SCHOOLS—SAFETY DRILLS

AN ACT Relating to school safety; and amending RCW 28A.320.125.

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

Sec. 1. RCW 28A.320.125 and 2009 c 578 s 10 are each amended to read as follows:

(1) The legislature considers it to be a matter of public safety for public schools and staff to have current safe school plans and procedures in place, fully consistent with federal law. The legislature further finds and intends, by requiring safe school plans to be in place, that school districts will become eligible for federal assistance. The legislature further finds that schools are in a position to serve the community in the event of an emergency resulting from natural disasters or man-made disasters.

(2) Schools and school districts shall consider the guidance provided by the superintendent of public instruction, including the comprehensive school safety checklist and the model comprehensive safe school plans that include prevention, intervention, all hazard/crisis response, and postcrisis recovery, when developing their own individual comprehensive safe school plans. Each school district shall adopt, no later than September 1, 2008, and implement a safe school plan consistent with the school mapping information system pursuant to RCW 36.28A.060. The plan shall:

(a) Include required school safety policies and procedures;

(b) Address emergency mitigation, preparedness, response, and recovery;

(c) Include provisions for assisting and communicating with students and staff, including those with special needs or disabilities;

(d) Use the training guidance provided by the Washington emergency management division of the state military department in collaboration with the Washington state office of the superintendent of public instruction school safety center and the school safety center advisory committee;

(e) Require the building principal to be certified on the incident command system;

(f) Take into account the manner in which the school facilities may be used as a community asset in the event of a community-wide emergency; and

(g) Set guidelines for requesting city or county law enforcement agencies, local fire departments, emergency service providers, and county emergency management agencies to meet with school districts and participate in safety-related drills.

(3) To the extent funds are available, school districts shall annually:

(a) Review and update safe school plans in collaboration with local emergency response agencies;

(b) Conduct an inventory of all hazardous materials;

(c) Update information on the school mapping information system to reflect current staffing and updated plans, including:

(i) Identifying all staff members who are trained on the national incident management system, trained on the incident command system, or are certified on the incident command system; and

(ii) Identifying school transportation procedures for evacuation, to include bus staging areas, evacuation routes, communication systems, parent-student reunification sites, and secondary transportation agreements consistent with the school mapping information system; and

(d) Provide information to all staff on the use of emergency supplies and notification and alert procedures.

(4) To the extent funds are available, school districts shall annually record and report on the information and activities required in subsection (3) of this section to the Washington association of sheriffs and police chiefs.

(5) School districts are encouraged to work with local emergency management agencies and other emergency responders to conduct one tabletop exercise, one functional exercise, and two full-scale exercises within a four-year period.

(6) Schools shall conduct no less than one safety-related drill each month that school is in session. Schools shall complete no less than one drill using the school mapping information system, ~~((one))~~ three drills for lockdowns, one drill for shelter-in-place, ~~((and six))~~ three drills for fire evacuation in accordance with the state fire code, and one other safety-related drill to be determined by the school. Schools should consider drills for earthquakes, tsunamis, or other high-risk local events. Schools shall document the date and time of such drills. This subsection is intended to satisfy all federal requirements for comprehensive school emergency drills and evacuations.

(7) Educational service districts are encouraged to apply for federal emergency response and crisis management grants with the assistance of the superintendent of public instruction and the Washington emergency management division of the state military department.

(8) The superintendent of public instruction may adopt rules to implement provisions of this section. These rules may include, but are not limited to, provisions for evacuations, lockdowns, or other components of a comprehensive safe school plan.

Passed by the Senate March 5, 2013.

Passed by the House April 3, 2013.

Approved by the Governor April 17, 2013.
 Filed in Office of Secretary of State April 17, 2013.

CHAPTER 15

[Substitute Senate Bill 5634]

DEPARTMENT OF NATURAL RESOURCES—COOPERATIVE AGREEMENTS

AN ACT Relating to clarifying the department of natural resources' authority to enter into cooperative agreements; and amending RCW 79.10.130.

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

Sec. 1. RCW 79.10.130 and 2003 c 334 s 540 are each amended to read as follows:

(1) The department is hereby authorized to carry out all activities necessary to achieve the purposes of RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.130, 79.10.200 through 79.10.330, 79.44.003, and ~~((79.90.456,))~~ 79.105.050 including, but not limited to:

~~((1))~~ (a) Planning, construction, and operation of conservation, recreational sites, areas, roads, and trails, by itself or in conjunction with any public agency, nonprofit organization, volunteer, or volunteer organization, including entering cooperative agreements for these purposes;

~~((2))~~ (b) Planning, construction, and operation of special facilities for educational, scientific, conservation, or experimental purposes by itself or in conjunction with any other public or private agency, including entering cooperative agreements for these purposes;

~~((3))~~ (c) Improvement of any lands to achieve the purposes of RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.130, 79.10.200 through 79.10.330, 79.44.003, and ~~((79.90.456))~~ 79.105.050, including entering cooperative agreements with public agencies, nonprofit organizations, volunteers, and volunteer organizations for these purposes;

~~((4))~~ Cooperation with public and private agencies in the utilization of such lands for watershed purposes;

~~((5))~~ (d) Entering cooperative agreements with public agencies, nonprofit organizations, volunteers, and volunteer organizations regarding the use of lands managed by the department for the purpose of providing a benefit to lands managed by the department, including but not limited to the following benefits: The utilization of such lands for watershed purposes; carrying out restoration and enhancement projects on such lands, such as improving, restoring, or enhancing habitat that provides for plant or animal species protection; improving, restoring, or enhancing watershed conditions; removing nonnative vegetation and providing vegetation management to restore, enhance, or maintain properly functioning conditions of the local ecosystem; and other similar projects on these lands that provide long-term environmental and other land management benefits, provided that the cooperative agreements are consistent with land management obligations;

(e) Authorizing individual volunteers and volunteer organizations to conduct restoration and enhancement projects on lands managed by the department through cooperative agreements authorized in this section or other arrangements that are consistent with land management obligations and that do not require the volunteers to pay a fee for the cooperative agreement purpose;

(f) Authorizing the receipt of gifts of personal property, services, and other items of value for the purposes of this section, as well as the exchange of consideration in cooperative agreements authorized under this section;

(g) The authority to make such leases, contracts, agreements, or other arrangements as are necessary to accomplish the purposes of RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.130, 79.10.200 through 79.10.330, 79.44.003, and ((79.90.456)) 79.105.050. However, nothing in this section shall affect any existing requirements for public bidding or auction with private agencies or parties, except that agreements or other arrangements may be made with public schools, colleges, universities, governmental agencies, ((and)) nonprofit ((scientific and educational associations)) organizations, volunteers, and volunteer organizations. In addition, nothing in this section is intended to conflict with the department's trust obligations.

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

(a) "Nonprofit organization" means: (i) Any organization described in section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) and exempt from tax under section 501(a) of the internal revenue code; or (ii) any not-for-profit organization that is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(b) "Volunteer" or "volunteer organization" means an individual or entity performing services for a nonprofit organization or a governmental entity who does not receive compensation, other than reasonable reimbursement or allowances for expenses actually incurred, or any other thing of value, in excess of five hundred dollars per year. "Volunteer" includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

Passed by the Senate February 26, 2013.

Passed by the House April 3, 2013.

Approved by the Governor April 17, 2013.

Filed in Office of Secretary of State April 17, 2013.

CHAPTER 16

[Substitute House Bill 1074]

PLAT APPROVALS

AN ACT Relating to requirements governing and associated with plat approvals; and amending RCW 58.17.140 and 58.17.170.

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

Sec. 1. RCW 58.17.140 and 2012 c 92 s 1 are each amended to read as follows:

(1) Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ninety days from date of filing thereof unless the applicant consents to an extension of such time period or the ninety day limitation is extended to include up to twenty-one days as specified under RCW 58.17.095(3): PROVIDED, That if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety day period shall not

include the time spent preparing and circulating the environmental impact statement by the local government agency.

(2) Final plats and short plats shall be approved, disapproved, or returned to the applicant within thirty days from the date of filing thereof, unless the applicant consents to an extension of such time period.

(3)(a) Except as provided by (b) of this subsection, a final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within seven years of the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015.

(b) A final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within ~~((nine))~~ ten years of the date of preliminary plat approval if the project is ~~((within city limits.))~~ not subject to requirements adopted under chapter 90.58 RCW~~((;))~~ and the date of preliminary plat approval is on or before December 31, 2007.

(4) Nothing contained in this section shall act to prevent any city, town, or county from adopting by ordinance procedures which would allow extensions of time that may or may not contain additional or altered conditions and requirements.

Sec. 2. RCW 58.17.170 and 2012 c 92 s 2 are each amended to read as follows:

(1) When the legislative body of the city, town or county finds that the subdivision proposed for final plat approval conforms to all terms of the preliminary plat approval, and that said subdivision meets the requirements of this chapter, other applicable state laws, and any local ordinances adopted under this chapter which were in effect at the time of preliminary plat approval, it shall suitably inscribe and execute its written approval on the face of the plat. The original of said final plat shall be filed for record with the county auditor. One reproducible copy shall be furnished to the city, town or county engineer. One paper copy shall be filed with the county assessor. Paper copies shall be provided to such other agencies as may be required by ordinance.

(2)(a) Except as provided by (b) of this subsection, any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of seven years from the date of filing if the date of filing is on or before December 31, 2014, and for a period of five years from the date of filing if the date of filing is on or after January 1, 2015.

(b) Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of ~~((nine))~~ ten years from the date of filing if the project is ~~((within city limits.))~~ not subject to requirements adopted under chapter 90.58 RCW~~((;))~~ and the date of filing is on or before December 31, 2007.

(3)(a) Except as provided by (b) of this subsection, a subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of seven years after final plat approval if the date of final plat approval is on or before December 31, 2014, and for a period of five years after final plat approval if the date of final plat approval is on or after January 1, 2015,

unless the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

(b) A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of ~~((nine))~~ ten years after final plat approval if the project is ~~((within city limits,))~~ not subject to requirements adopted under chapter 90.58 RCW~~((,))~~ and the date of final plat approval is on or before December 31, 2007, unless the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

Passed by the House March 4, 2013.

Passed by the Senate April 9, 2013.

Approved by the Governor April 18, 2013.

Filed in Office of Secretary of State April 18, 2013.

CHAPTER 17

[Substitute House Bill 1352]

CRIMES—CHILD SEXUAL ABUSE—STATUTE OF LIMITATIONS

AN ACT Relating to the statute of limitations for sexual abuse against a child; and amending RCW 9A.04.080.

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

Sec. 1. RCW 9A.04.080 and 2012 c 105 s 1 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4)).

(b) Except as provided in (c) of this subsection, the following offenses shall not be prosecuted more than ten years after their commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results; ~~((ø))~~

(iii)(A) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is reported to a law enforcement agency within one year of its commission~~((; except that if the victim is under fourteen years of age when the rape is committed and the rape is reported to a law enforcement agency within one year of its commission, the violation may be prosecuted up to the victim's twenty eighth birthday)).~~

(B) If a violation of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape may not be prosecuted~~((; (H)))~~ more than three years after its commission ~~((if the violation was committed against a victim fourteen years of~~

age or older; or (II) more than three years after the victim's eighteenth birthday or more than seven years after the rape's commission, whichever is later, if the violation was committed against a victim under fourteen years of age); or

(iv) Indecent liberties under RCW 9A.44.100(1)(b).

(c) Violations of the following statutes, when committed against a victim under the age of eighteen, may be prosecuted up to the victim's ((twenty-eighth) thirtieth) birthday: RCW 9A.44.040 (rape in the first degree), 9A.44.050 (rape in the second degree), 9A.44.073 (rape of a child in the first degree), 9A.44.076 (rape of a child in the second degree), 9A.44.079 (rape of a child in the third degree), 9A.44.083 (child molestation in the first degree), 9A.44.086 (child molestation in the second degree), ((9A.44.070, 9A.44.080)) 9A.44.089 (child molestation in the third degree), 9A.44.100(1)(b) (indecent liberties), ((9A.44.079, 9A.44.089, or)) 9A.64.020 (incest), or 9.68A.040 (sexual exploitation of a minor).

(d) The following offenses shall not be prosecuted more than six years after their commission or their discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception; or

(v) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010.

(e) The following offenses shall not be prosecuted more than five years after their commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(f) Bigamy shall not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(g) A violation of RCW 9A.56.030 must not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(h) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(i) No gross misdemeanor may be prosecuted more than two years after its commission.

(j) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or one year from the date on which the identity of the

suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

Passed by the House March 12, 2013.

Passed by the Senate April 9, 2013.

Approved by the Governor April 18, 2013.

Filed in Office of Secretary of State April 18, 2013.

CHAPTER 18

[House Bill 1442]

PARIMUTUEL SATELLITE LOCATIONS

AN ACT Relating to providing increased access to parimutuel satellite locations in counties with a population exceeding one million; and amending RCW 67.16.200.

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

Sec. 1. RCW 67.16.200 and 2007 c 100 s 1 are each amended to read as follows:

(1) A class 1 racing association licensed by the commission to conduct a race meet may seek approval from the commission to conduct parimutuel wagering at a satellite location or locations within the state of Washington. In order to participate in parimutuel wagering at a satellite location or locations within the state of Washington, the holder of a class 1 racing association license must have conducted at least one full live racing season. All class 1 racing associations must hold a live race meet within each succeeding twelve-month period to maintain eligibility to continue to participate in parimutuel wagering at a satellite location or locations. The sale of parimutuel pools at satellite locations shall be conducted simultaneous to all parimutuel wagering activity conducted at the licensee's live racing facility in the state of Washington. The commission's authority to approve satellite wagering at a particular location is subject to the following limitations:

(a) The commission may approve only one satellite location in each county in the state; provided however, the commission may approve two satellite locations in counties with a population exceeding one million. The commission may grant approval for more than one licensee to conduct wagering at each satellite location. A satellite location shall not be operated within twenty driving miles of any class 1 racing facility. For the purposes of this section, "driving miles" means miles measured by the most direct route as determined by the commission; and

(b) A licensee shall not conduct satellite wagering at any satellite location within sixty driving miles of any other racing facility conducting a live race meet.

(2) Subject to local zoning and other land use ordinances, the commission shall be the sole judge of whether approval to conduct wagering at a satellite location shall be granted.

(3) The licensee shall combine the parimutuel pools of the satellite location with those of the racing facility for the purpose of determining odds and computing payoffs. The amount wagered at the satellite location shall be combined with the amount wagered at the racing facility for the application of take out formulas and distribution as provided in RCW 67.16.102, 67.16.105, 67.16.170, and 67.16.175. A satellite extension of the licensee's racing facility shall be subject to the same application of the rules of racing as the licensee's racing facility.

(4) Upon written application to the commission, a class 1 racing association may be authorized to transmit simulcasts of live horse races conducted at its racetrack to locations outside of the state of Washington approved by the commission and in accordance with the interstate horse racing act of 1978 (15 U.S.C. Sec. 3001 to 3007) or any other applicable laws. The commission may permit parimutuel pools on the simulcast races to be combined in a common pool. A racing association that transmits simulcasts of its races to locations outside this state shall pay at least fifty percent of the fee that it receives for sale of the simulcast signal to the horsemen's purse account for its live races after first deducting the actual cost of sending the signal out of state.

(5) Upon written application to the commission, a class 1 racing association may be authorized to transmit simulcasts of live horse races conducted at its racetrack to licensed racing associations located within the state of Washington and approved by the commission for the receipt of the simulcasts. The commission shall permit parimutuel pools on the simulcast races to be combined in a common pool. The fee for in-state, track-to-track simulcasts shall be five and one-half percent of the gross parimutuel receipts generated at the receiving location and payable to the sending racing association. A racing association that transmits simulcasts of its races to other licensed racing associations shall pay at least fifty percent of the fee that it receives for the simulcast signal to the horsemen's purse account for its live race meet after first deducting the actual cost of sending the simulcast signal. A racing association that receives races simulcast from class 1 racing associations within the state shall pay at least fifty percent of its share of the parimutuel receipts to the horsemen's purse account for its live race meet after first deducting the purchase price and the actual direct costs of importing the race.

(6) A class 1 racing association may be allowed to import simulcasts of horse races from out-of-state racing facilities. With the prior approval of the commission, the class 1 racing association may participate in a multijurisdictional common pool and may change its commission and breakage rates to achieve a common rate with other participants in the common pool.

(a) The class 1 racing association shall make written application with the commission for permission to import simulcast horse races for the purpose of parimutuel wagering. Subject to the terms of this section, the commission is the sole authority in determining whether to grant approval for an imported simulcast race.

(b) When open for parimutuel wagering, a class 1 racing association which imports simulcast races shall also conduct simulcast parimutuel wagering within its licensed racing enclosure on all races simulcast from other class 1 racing associations within the state of Washington.

(c) On any imported simulcast race, the class 1 racing association shall pay fifty percent of its share of the parimutuel receipts to the horsemen's purse account for its live race meet after first deducting the purchase price of the imported race and the actual costs of importing and offering the race.

(7) A licensed nonprofit racing association may be approved to import one simulcast race of regional or national interest on each live race day.

(8) For purposes of this section, a class 1 racing association is defined as a licensee approved by the commission to conduct during each twelve-month period at least forty days of live racing. If a live race day is canceled due to reasons directly attributable to acts of God, labor disruptions affecting live race days but not directly involving the licensee or its employees, or other circumstances that the commission decides are beyond the control of the class 1 racing association, then the canceled day counts toward the forty-day requirement. The commission may by rule increase the number of live racing days required to maintain class 1 racing association status or make other rules necessary to implement this section.

(9) This section does not establish a new form of gaming in Washington or allow expanded gaming within the state beyond what has been previously authorized. Simulcast wagering has been allowed in Washington before April 19, 1997. Therefore, this section does not allow gaming of any nature or scope that was prohibited before April 19, 1997. This section is necessary to protect the Washington equine breeding and racing industries, and in particular those sectors of these industries that are dependent upon live horse racing. The purpose of this section is to protect these industries from adverse economic impacts and to promote fan attendance at class 1 racing facilities. Therefore, a licensed class 1 racing association may be approved to disseminate imported simulcast race card programs to satellite locations approved under this section, provided that the class 1 racing association has conducted at least forty live racing days with an average on-track handle on the live racing product of a minimum of one hundred fifty thousand dollars per day during the twelve months immediately preceding the application date. However, to promote the development of a new class 1 racing association facility and to meet the best interests of the Washington equine breeding and racing industries, the commission may by rule reduce the required minimum average on-track handle on the live racing product from one hundred fifty thousand dollars per day to thirty thousand dollars per day.

(10) A licensee conducting simulcasting under this section shall place signs in the licensee's gambling establishment under RCW 9.46.071. The informational signs concerning problem and compulsive gambling must include a toll-free telephone number for problem and pathological gamblers and be developed under RCW 9.46.071.

(11) Chapter 10, Laws of 2001 1st sp. sess. does not establish a new form of gaming in Washington or allow expanded gaming within the state beyond what has been previously authorized. Simulcast wagering has been allowed in Washington before August 23, 2001. Therefore, this section does not allow gaming of any nature or scope that was prohibited before August 23, 2001. Chapter 10, Laws of 2001 1st sp. sess. is necessary to protect the Washington equine breeding and racing industries, and in particular those sectors of these industries that are dependent upon live horse racing. The purpose of chapter 10,

Laws of 2001 1st sp. sess. is to protect these industries from adverse economic impacts and to promote fan attendance at class 1 racing facilities.

Passed by the House March 7, 2013.

Passed by the Senate April 9, 2013.

Approved by the Governor April 18, 2013.

Filed in Office of Secretary of State April 18, 2013.

CHAPTER 19

[House Bill 1609]

BOARD OF PHARMACY—PHARMACY QUALITY ASSURANCE COMMISSION

AN ACT Relating to the board of pharmacy; amending RCW 18.50.115, 18.53.010, 18.64.001, 18.64.003, 18.64.005, 18.64.009, 18.64.044, 18.64.046, 18.64.047, 18.64.140, 18.64.160, 18.64.165, 18.64.200, 18.64.205, 18.64.245, 18.64.246, 18.64.255, 18.64.257, 18.64.310, 18.64.360, 18.64.390, 18.64.410, 18.64.420, 18.64.450, 18.64.470, 18.64.480, 18.64.490, 18.64.500, 18.64.510, 18.64A.010, 18.64A.020, 18.64A.025, 18.64A.030, 18.64A.040, 18.64A.050, 18.64A.060, 18.64A.070, 18.64A.080, 18.92.012, 18.92.013, 18.92.015, 51.36.010, 64.44.010, 69.04.565, 69.04.730, 69.38.010, 69.38.060, 69.40.055, 69.41.010, 69.41.075, 69.41.080, 69.41.180, 69.41.210, 69.41.240, 69.41.250, 69.41.280, 69.41.310, 69.43.010, 69.43.020, 69.43.030, 69.43.035, 69.43.040, 69.43.043, 69.43.048, 69.43.050, 69.43.060, 69.43.090, 69.43.100, 69.43.105, 69.43.110, 69.43.130, 69.43.140, 69.43.165, 69.43.180, 69.45.010, 69.45.020, 69.45.060, 69.45.080, 69.45.090, 69.50.201, 69.50.203, 69.50.205, 69.50.207, 69.50.208, 69.50.209, 69.50.210, 69.50.211, 69.50.213, 69.50.214, 69.50.301, 69.50.302, 69.50.303, 69.50.304, 69.50.305, 69.50.306, 69.50.308, 69.50.310, 69.50.312, 69.50.320, 69.50.402, 69.50.501, 69.50.504, 69.50.507, 69.50.508, 69.50.601, 69.51.030, 69.51.040, 69.51.050, 69.51.060, 69.60.020, 69.60.040, 69.60.060, 69.60.080, 69.60.090, 70.24.280, 70.54.140, 70.106.150, 70.127.130, 70.225.020, and 82.04.272; reenacting and amending RCW 18.64.011, 18.64.080, 18.130.040, 18.130.040, 28B.115.020, and 42.56.360; adding a new section to chapter 69.50 RCW; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 18.50.115 and 1994 sp.s. c 9 s 707 are each amended to read as follows:

A midwife licensed under this chapter may obtain and administer prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho immune globulin (human), and local anesthetic and may administer such other drugs or medications as prescribed by a physician. A pharmacist who dispenses such drugs to a licensed midwife shall not be liable for any adverse reactions caused by any method of use by the midwife.

The secretary, after consultation with representatives of the midwife advisory committee, the ~~((board of pharmacy))~~ pharmacy quality assurance commission, and the medical quality assurance commission, may adopt rules that authorize licensed midwives to purchase and use legend drugs and devices in addition to the drugs authorized in this chapter.

Sec. 2. RCW 18.53.010 and 2006 c 232 s 1 are each amended to read as follows:

(1) The practice of optometry is defined as the examination of the human eye, the examination and ascertaining any defects of the human vision system and the analysis of the process of vision. The practice of optometry may include, but not necessarily be limited to, the following:

(a) The employment of any objective or subjective means or method, including the use of drugs, for diagnostic and therapeutic purposes by those licensed under this chapter and who meet the requirements of subsections (2)

and (3) of this section, and the use of any diagnostic instruments or devices for the examination or analysis of the human vision system, the measurement of the powers or range of human vision, or the determination of the refractive powers of the human eye or its functions in general; and

(b) The prescription and fitting of lenses, prisms, therapeutic or refractive contact lenses and the adaption or adjustment of frames and lenses used in connection therewith; and

(c) The prescription and provision of visual therapy, therapeutic aids, and other optical devices; and

(d) The ascertainment of the perceptive, neural, muscular, or pathological condition of the visual system; and

(e) The adaptation of prosthetic eyes.

(2)(a) Those persons using topical drugs for diagnostic purposes in the practice of optometry shall have a minimum of sixty hours of didactic and clinical instruction in general and ocular pharmacology as applied to optometry, as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board of Washington to use drugs for diagnostic purposes.

(b) Those persons using or prescribing topical drugs for therapeutic purposes in the practice of optometry must be certified under (a) of this subsection, and must have an additional minimum of seventy-five hours of didactic and clinical instruction as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board of Washington to use drugs for therapeutic purposes.

(c) Those persons using or prescribing drugs administered orally for diagnostic or therapeutic purposes in the practice of optometry shall be certified under (b) of this subsection, and shall have an additional minimum of sixteen hours of didactic and eight hours of supervised clinical instruction as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board of Washington to administer, dispense, or prescribe oral drugs for diagnostic or therapeutic purposes.

(d) Those persons administering epinephrine by injection for treatment of anaphylactic shock in the practice of optometry must be certified under (b) of this subsection and must have an additional minimum of four hours of didactic and supervised clinical instruction, as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board to administer epinephrine by injection.

(e) Such course or courses shall be the fiscal responsibility of the participating and attending optometrist.

(f)(i) All persons receiving their initial license under this chapter on or after January 1, 2007, must be certified under (a), (b), (c), and (d) of this subsection.

(ii) All persons licensed under this chapter on or after January 1, 2009, must be certified under (a) and (b) of this subsection.

(iii) All persons licensed under this chapter on or after January 1, 2011, must be certified under (a), (b), (c), and (d) of this subsection.

(3) The board shall establish a list of topical drugs for diagnostic and treatment purposes limited to the practice of optometry, and no person licensed pursuant to this chapter shall prescribe, dispense, purchase, possess, or administer drugs except as authorized and to the extent permitted by the board.

(4) The board must establish a list of oral Schedule III through V controlled substances and any oral legend drugs, with the approval of and after consultation with the ~~((board of pharmacy))~~ pharmacy quality assurance commission. No person licensed under this chapter may use, prescribe, dispense, purchase, possess, or administer these drugs except as authorized and to the extent permitted by the board. No optometrist may use, prescribe, dispense, or administer oral corticosteroids.

(a) The board, with the approval of and in consultation with the ~~((board of pharmacy))~~ pharmacy quality assurance commission, must establish, by rule, specific guidelines for the prescription and administration of drugs by optometrists, so that licensed optometrists and persons filling their prescriptions have a clear understanding of which drugs and which dosages or forms are included in the authority granted by this section.

(b) An optometrist may not:

(i) Prescribe, dispense, or administer a controlled substance for more than seven days in treating a particular patient for a single trauma, episode, or condition or for pain associated with or related to the trauma, episode, or condition; or

(ii) Prescribe an oral drug within ninety days following ophthalmic surgery unless the optometrist consults with the treating ophthalmologist.

(c) If treatment exceeding the limitation in (b)(i) of this subsection is indicated, the patient must be referred to a physician licensed under chapter 18.71 RCW.

(d) The prescription or administration of drugs as authorized in this section is specifically limited to those drugs appropriate to treatment of diseases or conditions of the human eye and the adnexa that are within the scope of practice of optometry. The prescription or administration of drugs for any other purpose is not authorized by this section.

(5) The board shall develop a means of identification and verification of optometrists certified to use therapeutic drugs for the purpose of issuing prescriptions as authorized by this section.

(6) Nothing in this chapter may be construed to authorize the use, prescription, dispensing, purchase, possession, or administration of any Schedule I or II controlled substance. The provisions of this subsection must be strictly construed.

(7) With the exception of the administration of epinephrine by injection for the treatment of anaphylactic shock, no injections or infusions may be administered by an optometrist.

(8) Nothing in this chapter may be construed to authorize optometrists to perform ophthalmic surgery. Ophthalmic surgery is defined as any invasive procedure in which human tissue is cut, ablated, or otherwise penetrated by

incision, injection, laser, ultrasound, or other means, in order to: Treat human eye diseases; alter or correct refractive error; or alter or enhance cosmetic appearance. Nothing in this chapter limits an optometrist's ability to use diagnostic instruments utilizing laser or ultrasound technology. Ophthalmic surgery, as defined in this subsection, does not include removal of superficial ocular foreign bodies, epilation of misaligned eyelashes, placement of punctal or lacrimal plugs, diagnostic dilation and irrigation of the lacrimal system, orthokeratology, prescription and fitting of contact lenses with the purpose of altering refractive error, or other similar procedures within the scope of practice of optometry.

Sec. 3. RCW 18.64.001 and 2011 c 336 s 493 are each amended to read as follows:

There shall be a state (~~(board of pharmacy)~~) pharmacy quality assurance commission consisting of (~~(seven)~~) fifteen members, to be appointed by the governor by and with the advice and consent of the senate. (~~(Five)~~) Ten of the members shall be designated as pharmacist members (~~(and two)~~), four of the members shall be designated a public member, and one member shall be a pharmacy technician.

Each pharmacist member shall be a citizen of the United States and a resident of this state, and at the time of his or her appointment shall have been a duly registered pharmacist under the laws of this state for a period of at least five consecutive years immediately preceding his or her appointment and shall at all times during his or her incumbency continue to be a duly licensed pharmacist: PROVIDED, That subject to the availability of qualified candidates the governor shall appoint pharmacist members representative of the areas of practice and geographically representative of the state of Washington.

The public member shall be a citizen of the United States and a resident of this state. The public member shall be appointed from the public at large, but shall not be affiliated with any aspect of pharmacy.

Members of the (~~(board)~~) commission shall hold office for a term of four years, and the terms shall be staggered so that the terms of office of not more than two members will expire simultaneously on the third Monday in January of each year.

No person who has been appointed to and served for two four year terms shall be eligible for appointment to the (~~(board)~~) commission.

Each member shall qualify by taking the usual oath of a state officer, which shall be filed with the secretary of state, and each member shall hold office for the term of his or her appointment and until his or her successor is appointed and qualified.

In case of the resignation or disqualification of a member, or a vacancy occurring from any cause, the governor shall appoint a successor for the unexpired term.

Sec. 4. RCW 18.64.003 and 1984 c 287 s 43 are each amended to read as follows:

Members of the (~~(board)~~) commission shall meet at such places and times as it shall determine and as often as necessary to discharge the duties imposed upon it. The (~~(board)~~) commission shall elect a chairperson and a vice chairperson from among its members. Each member shall be compensated in accordance

with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

Sec. 5. RCW 18.64.005 and 1990 c 83 s 1 are each amended to read as follows:

The ~~((board))~~ commission shall:

(1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;

(2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;

(3) Establish the qualifications for licensure of pharmacists or pharmacy interns;

(4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the ~~((board))~~ commission, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;

(5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the ~~((board))~~ commission;

(6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;

(7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the ~~((board))~~ commission;

(8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

(9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed as members of ~~((such board))~~ the commission. Such immunity shall apply to employees of the department when acting in the course of disciplinary proceedings;

(10) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

(11) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;

(12) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

(13) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social

and health services, the department of labor and industries, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the department. The department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers.

Sec. 6. RCW 18.64.009 and 1989 1st ex.s. c 9 s 411 are each amended to read as follows:

Employees of the department, who are designated by the (~~board~~) commission as enforcement officers, are declared to be peace officers and shall be vested with police powers to enforce chapters 18.64, 69.04, 69.36, 69.40, 69.41, and 69.50 RCW and all other laws enforced by the (~~board~~) commission.

Sec. 7. RCW 18.64.011 and 2009 c 549 s 1008 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated when used in this chapter.

(1) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) (~~"Board" means the Washington state board of pharmacy.~~) "Commission" means the pharmacy quality assurance commission.

(3) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

(4) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(5) "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.

(6) "Department" means the department of health.

(7) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

(8) "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.

(9) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(10) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the

Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(11) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(12) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state. Health care entity includes a freestanding outpatient surgery center or a freestanding cardiac care center. It does not include an individual practitioner's office or a multipractitioner clinic.

(13) "Labeling" shall mean the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(14) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(15) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, prepares, compounds, packages, or labels such substance or device.

(16) "Manufacturer" shall mean a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(17) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement.

(18) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(19) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(20) "Pharmacist" means a person duly licensed by the (~~Washington state board of pharmacy~~) commission to engage in the practice of pharmacy.

(21) "Pharmacy" means every place properly licensed by the (~~board of pharmacy~~) commission where the practice of pharmacy is conducted.

(22) The word "poison" shall not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(23) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(24) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(25) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(26) "Secretary" means the secretary of health or the secretary's designee.

(27) "Wholesaler" shall mean a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

Sec. 8. RCW 18.64.044 and 2005 c 388 s 5 are each amended to read as follows:

(1) A shopkeeper registered as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer.

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to register as a shopkeeper through the master license system, and he or she shall pay the fee determined by the secretary for registration, and on a date to be determined by the secretary thereafter the fee determined by the secretary for renewal of the registration; and shall at all times keep said registration or the current renewal thereof conspicuously exposed in the location to which it applies. In event such shopkeeper's registration is not renewed by the master license expiration date, no renewal or new registration shall be issued except upon payment of the registration renewal fee and the master license delinquency fee under chapter 19.02 RCW. This registration fee shall not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the secretary under subsection (2) of this section shall not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(5) A shopkeeper who is not a licensed pharmacy may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The ~~((board))~~ commission shall issue a warning to a shopkeeper who violates this subsection, and may suspend or revoke the registration of the shopkeeper for a subsequent violation.

(6) A shopkeeper who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the shopkeeper's total prior monthly sales of nonprescription drugs in March through October. In November through February, the shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the shopkeeper's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The ~~((board))~~ commission may suspend or revoke the registration of a shopkeeper who violates this subsection.

(b) The shopkeeper shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the ~~((board))~~ commission. The records must be available for inspection by the ~~((board))~~ commission or any law enforcement agency and must be maintained for two years. The ~~((board))~~ commission may suspend or revoke the registration of a shopkeeper who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

Sec. 9. RCW 18.64.046 and 2005 c 388 s 6 are each amended to read as follows:

(1) The owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, a like fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

(3) In event the license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

(4) No wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products to persons within the state of Washington exceed five percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state in March through October. In November through February, no wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers if the total monthly sales of these products to persons within the state of Washington exceed ten percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state. For purposes of this section, monthly sales means total dollars paid by buyers. The ~~((board))~~ commission may suspend or revoke the license of any wholesaler that violates this section.

(5) The ~~((board))~~ commission may exempt a wholesaler from the limitations of subsection (4) of this section if it finds that the wholesaler distributes nonprescription drugs only through transactions between divisions, subsidiaries, or related companies when the wholesaler and the retailer are related by common ownership, and that neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs as defined in RCW 69.43.035.

(6) The requirements for a license apply to all persons, in Washington and outside of Washington, who sell both legend drugs and nonprescription drugs and to those who sell only nonprescription drugs, at wholesale to pharmacies, practitioners, and shopkeepers in Washington.

(7)(a) No wholesaler may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, to any person in Washington other than a pharmacy licensed under this chapter, a shopkeeper or itinerant vendor registered under this chapter, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner as defined in RCW 69.43.105.

(b) A violation of this subsection is punishable as a class C felony according to chapter 9A.20 RCW, and each sale in violation of this subsection constitutes a separate offense.

Sec. 10. RCW 18.64.047 and 2005 c 388 s 7 are each amended to read as follows:

(1) Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the secretary on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280. The department may issue a registration to such vendor on an approved application made to the department.

(2) Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(3) In event the registration fee remains unpaid on the date due, no renewal or new registration shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. This registration shall not authorize the sale of legend drugs or controlled substances.

(4) An itinerant vendor may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The ((board)) commission shall issue a warning to an itinerant vendor who violates this subsection, and may suspend or revoke the registration of the vendor for a subsequent violation.

(5) An itinerant vendor who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The itinerant vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the vendor's total prior monthly sales of nonprescription drugs in March through October. In November through February, the vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the vendor's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The ((board)) commission may suspend or revoke the registration of an itinerant vendor who violates this subsection.

(b) The itinerant vendor shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the ((board)) commission. The records must be available for inspection by the ((board)) commission or any law enforcement agency and must be maintained for two years. The ((board)) commission may suspend or revoke the registration of an itinerant vendor who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

Sec. 11. RCW 18.64.080 and 1989 1st ex.s. c 9 ss 403, 420 and 1989 c 352 s 3 are each reenacted and amended to read as follows:

(1) The department may license as a pharmacist any person who has filed an application therefor, subscribed by the person under oath or affirmation, containing such information as the ((board)) commission may by regulation require, and who—

(a) Is at least eighteen years of age;

(b) Has satisfied the ((board)) commission that he or she is of good moral and professional character, that he or she will carry out the duties and responsibilities required of a pharmacist, and that he or she is not unfit or unable to practice pharmacy by reason of the extent or manner of his or her proven use of alcoholic beverages, drugs, or controlled substances, or by reason of a proven physical or mental disability;

(c) Holds a baccalaureate degree in pharmacy or a doctor of pharmacy degree granted by a school or college of pharmacy which is accredited by the ((board of pharmacy)) commission;

(d) Has completed or has otherwise met the internship requirements as set forth in ((board)) commission rules;

(e) Has satisfactorily passed the necessary examinations approved by the ((board)) commission and administered by the department.

(2) The department shall, at least once in every calendar year, offer an examination to all applicants for a pharmacist license who have completed their educational and internship requirements pursuant to rules promulgated by the ((board)) commission. The examination shall be determined by the ((board)) commission. In case of failure at a first examination, the applicant shall have within three years the privilege of a second and third examination. In case of failure in a third examination, the applicant shall not be eligible for further examination until he or she has satisfactorily completed additional preparation as directed and approved by the ((board)) commission. The applicant must pay the examination fee determined by the secretary for each examination taken. Upon passing the required examinations and complying with all the rules and regulations of the ((board)) commission and the provisions of this chapter, the department shall grant the applicant a license as a pharmacist and issue to him or her a certificate qualifying him or her to enter into the practice of pharmacy.

(3) Any person enrolled as a student of pharmacy in an accredited college may file with the department an application for registration as a pharmacy intern in which application he or she shall be required to furnish such information as the ((board)) commission may, by regulation, prescribe and, simultaneously with the filing of said application, shall pay to the department a fee to be determined by the secretary. All certificates issued to pharmacy interns shall be valid for a period to be determined by the ((board)) commission, but in no instance shall the certificate be valid if the individual is no longer making timely progress toward graduation, provided however, the ((board)) commission may issue an intern certificate to a person to complete an internship to be eligible for initial licensure or for the reinstatement of a previously licensed pharmacist.

(4) To assure adequate practical instruction, pharmacy internship experience as required under this chapter shall be obtained after registration as a pharmacy intern by practice in any licensed pharmacy or other program meeting the requirements promulgated by regulation of the ((board)) commission, and shall include such instruction in the practice of pharmacy as the ((board)) commission by regulation shall prescribe.

(5) The department may, without examination other than one in the laws relating to the practice of pharmacy, license as a pharmacist any person who, at the time of filing application therefor, is currently licensed as a pharmacist in any other state, territory, or possession of the United States. The person shall produce evidence satisfactory to the department of having had the required secondary and professional education and training and who was licensed as a pharmacist by examination in another state prior to June 13, 1963, shall be required to satisfy only the requirements which existed in this state at the time he or she became licensed in such other state, and that the state in which the person is licensed shall under similar conditions grant reciprocal licenses as pharmacist without examination to pharmacists duly licensed by examination in this state.

Every application under this subsection shall be accompanied by a fee determined by the department.

(6) The department shall provide for, regulate, and require all persons licensed as pharmacists to renew their license periodically, and shall prescribe the form of such license and information required to be submitted by all applicants.

Sec. 12. RCW 18.64.140 and 1996 c 191 s 47 are each amended to read as follows:

Every licensed pharmacist who desires to practice pharmacy shall secure from the department a license, the fee for which shall be determined by the secretary under RCW 43.70.250 and 43.70.280. The administrative procedures, administrative requirements, renewal fee, and late renewal fee shall also be determined under RCW 43.70.250 and 43.70.280. Payment of this fee shall entitle the licensee to a pharmacy law book, subsequent current mailings of all additions, changes, or deletions in the pharmacy practice act, chapter 18.64 RCW, and all additions, changes, or deletions of ((pharmacy board)) commission and department regulations. The current license shall be conspicuously displayed to the public in the pharmacy to which it applies. Any licensed pharmacist who desires to leave the active practice of pharmacy in this state may secure from the department an inactive license. The initial license and renewal fees shall be determined by the secretary under RCW 43.70.250 and 43.70.280. The holder of an inactive license may reactivate his or her license to practice pharmacy in accordance with rules adopted by the ((board)) commission.

Sec. 13. RCW 18.64.160 and 1993 c 367 s 13 are each amended to read as follows:

In addition to the grounds under RCW 18.130.170 and 18.130.180, the ((board of pharmacy)) commission may take disciplinary action against the license of any pharmacist or intern upon proof that:

(1) His or her license was procured through fraud, misrepresentation, or deceit;

(2) In the event that a pharmacist is determined by a court of competent jurisdiction to be mentally incompetent, the pharmacist shall automatically have his or her license suspended by the ((board)) commission upon the entry of the judgment, regardless of the pendency of an appeal;

(3) He or she has knowingly violated or permitted the violation of any provision of any state or federal law, rule, or regulation governing the possession, use, distribution, or dispensing of drugs, including, but not limited to, the violation of any provision of this chapter, Title 69 RCW, or rule or regulation of the ((board)) commission;

(4) He or she has knowingly allowed any unlicensed person to take charge of a pharmacy or engage in the practice of pharmacy, except a pharmacy intern or pharmacy assistant acting as authorized in this chapter or chapter 18.64A RCW in the presence of and under the immediate supervision of a licensed pharmacist;

(5) He or she has compounded, dispensed, or caused the compounding or dispensing of any drug or device which contains more or less than the equivalent quantity of ingredient or ingredients specified by the person who prescribed such drug or device: PROVIDED, HOWEVER, That nothing herein shall be

construed to prevent the pharmacist from exercising professional judgment in the preparation or providing of such drugs or devices.

Sec. 14. RCW 18.64.165 and 1995 c 319 s 5 are each amended to read as follows:

The (~~board~~) commission shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, peddler, poison distributor, health care entity, or precursor chemical distributor upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) The licensee has violated or has permitted any employee to violate any of the laws of this state or the United States relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the (~~board of pharmacy~~) commission or has been convicted of a felony.

Sec. 15. RCW 18.64.200 and 1963 c 38 s 11 are each amended to read as follows:

In any case of the refusal, suspension or revocation of a license by (~~said board~~) the commission under the provisions of this chapter, appeal may be taken in accordance with the Administrative Procedure Act.

Sec. 16. RCW 18.64.205 and 1996 c 191 s 48 are each amended to read as follows:

The (~~board~~) commission may adopt rules pursuant to this section authorizing a retired active license status. An individual licensed pursuant to this chapter, who is practicing only in emergent or intermittent circumstances as defined by rule established by the (~~board~~) commission, may hold a retired active license at a reduced renewal fee established by the secretary under RCW 43.70.250 and 43.70.280. Such a license shall meet the continuing education requirements, if any, established by the (~~board~~) commission for renewals, and is subject to the provisions of the uniform disciplinary act, chapter 18.130 RCW. Individuals who have entered into retired status agreements with the disciplinary authority in any jurisdiction shall not qualify for a retired active license under this section.

Sec. 17. RCW 18.64.245 and 2003 c 53 s 135 are each amended to read as follows:

(1) Every proprietor or manager of a pharmacy shall keep readily available a suitable record of prescriptions which shall preserve for a period of not less than two years the record of every prescription dispensed at such pharmacy which shall be numbered, dated, and filed, and shall produce the same in court or before any grand jury whenever lawfully required to do so. The record shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy. All recordkeeping requirements for controlled substances must be complied with. Such record of prescriptions shall be for confidential use in the pharmacy, only. The record of prescriptions shall be open for inspection by the (~~board of pharmacy~~) commission or any officer of the law, who is authorized to enforce chapter 18.64, 69.41, or 69.50 RCW.

(2) A person violating this section is guilty of a misdemeanor.

Sec. 18. RCW 18.64.246 and 2003 c 53 s 136 are each amended to read as follows:

(1) To every box, bottle, jar, tube or other container of a prescription which is dispensed there shall be fixed a label bearing the name and address of the dispensing pharmacy, the prescription number, the name of the prescriber, the prescriber's directions, the name and strength of the medication, the name of the patient, the date, and the expiration date. The security of the cover or cap on every bottle or jar shall meet safety standards adopted by the ~~((state board of pharmacy))~~ commission. At the prescriber's request, the name and strength of the medication need not be shown. If the prescription is for a combination medication product, the generic names of the medications combined or the trade name used by the manufacturer or distributor for the product shall be noted on the label. The identification of the licensed pharmacist responsible for each dispensing of medication must either be recorded in the pharmacy's record system or on the prescription label. This section shall not apply to the dispensing of medications to in-patients in hospitals.

(2) A person violating this section is guilty of a misdemeanor.

Sec. 19. RCW 18.64.255 and 2011 c 336 s 495 are each amended to read as follows:

Nothing in this chapter shall operate in any manner:

(1) To restrict the scope of authorized practice of any practitioner other than a pharmacist, duly licensed as such under the laws of this state. However, a health care entity shall comply with all state and federal laws and rules relating to the dispensing of drugs and the practice of pharmacy; or

(2) In the absence of the pharmacist from the hospital pharmacy, to prohibit a registered nurse designated by the hospital and the responsible pharmacist from obtaining from the hospital pharmacy such drugs as are needed in an emergency: PROVIDED, That proper record is kept of such emergency, including the date, time, name of prescriber, the name of the nurse obtaining the drugs, and a list of what drugs and quantities of same were obtained; or

(3) To prevent shopkeepers, itinerant vendors, peddlers, or salespersons from dealing in and selling nonprescription drugs, if such drugs are sold in the original packages of the manufacturer, or in packages put up by a licensed pharmacist in the manner provided by the ~~((state board of pharmacy))~~ commission, if such shopkeeper, itinerant vendor, salesperson, or peddler shall have obtained a registration.

Sec. 20. RCW 18.64.257 and 1987 c 41 s 1 are each amended to read as follows:

This chapter shall not prevent a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program from selling, delivering, possessing, or dispensing directly to its dialysis patients, in case or full shelf lots, if prescribed by a physician licensed under chapter 18.57 or 18.71 RCW, those legend drugs determined by the ~~((board))~~ commission pursuant to rule.

Sec. 21. RCW 18.64.310 and 1996 c 191 s 49 are each amended to read as follows:

The department shall:

(1) Establish reasonable license and examination fees and fees for services to other agencies in accordance with RCW 43.70.250 and 43.70.280. In cases where there are unanticipated demands for services, the department may request payment for services directly from the agencies for whom the services are performed, to the extent that revenues or other funds are available. Drug-related investigations regarding licensed health care practitioners shall be funded by an appropriation to the department from the health professions account. The payment may be made on either an advance or a reimbursable basis as approved by the director of financial management;

(2) Employ, with confirmation by the ((board)) commission, an executive officer, who shall be exempt from the provisions of chapter 41.06 RCW and who shall be a pharmacist licensed in Washington, and employ inspectors, investigators, chemists, and other persons as necessary to assist it for any purpose which it may deem necessary;

(3) Investigate and prosecute, at the direction of the ((board)) commission, including use of subpoena powers, violations of law or regulations under its jurisdiction or the jurisdiction of the ((board of pharmacy)) commission;

(4) Make, at the direction of the ((board)) commission, inspections and investigations of pharmacies and other places, including dispensing machines, in which drugs or devices are stored, held, compounded, dispensed, sold, or administered to the ultimate consumer, to take and analyze any drugs or devices and to seize and condemn any drugs or devices which are adulterated, misbranded, stored, held, dispensed, distributed, administered, or compounded in violation of or contrary to law. The written operating agreement between the department and the ((board)) commission, as required by RCW 43.70.240 shall include provisions for the department to involve the ((board)) commission in carrying out its duties required by this section.

Sec. 22. RCW 18.64.360 and 2005 c 275 s 3 are each amended to read as follows:

(1) For the purposes of this chapter any pharmacy located outside this state that ships, mails, or delivers, in any manner, except when delivered in person to an individual, controlled substances, legend drugs, or devices into this state is a nonresident pharmacy, and shall be licensed by the department of health, and shall disclose to the department the following:

(a) The location, names, and titles of all owners including corporate officers and all pharmacists employed by the pharmacy who are dispensing controlled substances, legend drugs, or devices to residents of this state. A report containing this information shall be made on an annual basis and within ninety days after a change of location, corporate officer, or pharmacist;

(b) Proof of compliance with all lawful directions and requests for information from the regulatory or licensing agency of the state or Canadian province in which it is licensed as well as with all requests for information made by the department of health under this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state or Canadian province in which it is located. As a prerequisite to be licensed by the department of health, the nonresident pharmacy shall submit a copy of the most recent inspection report issued by the regulatory licensing agency of the state or Canadian province in which it is located;

(c) Proof that it maintains its records of controlled substances, legend drugs, or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(2) Any pharmacy subject to this section shall, during its regular hours of operation, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on the label affixed to each container of drugs dispensed to patients in this state.

(3) A pharmacy subject to this section shall comply with ~~((board))~~ commission rules regarding the maintenance and use of patient medication record systems.

(4) A pharmacy subject to this section shall comply with ~~((board of pharmacy))~~ commission rules regarding the provision of drug information to the patient. Drug information may be contained in written form setting forth directions for use and any additional information necessary to assure the proper utilization of the medication prescribed. A label bearing the expiration date of the prescription must be affixed to each box, bottle, jar, tube, or other container of a prescription that is dispensed in this state by a pharmacy subject to this section.

(5) A pharmacy subject to this section shall not dispense medication in a quantity greater than authorized by the prescriber.

(6) The license fee specified by the secretary, in accordance with the provisions of RCW 43.70.250, shall not exceed the fee charged to a pharmacy located in this state.

(7) The license requirements of this section apply to nonresident pharmacies that ship, mail, or deliver controlled substances, legend drugs, and devices into this state only under a prescription. The ~~((board of pharmacy))~~ commission may grant an exemption from licensing under this section upon application by an out-of-state pharmacy that restricts its dispensing activity in Washington to isolated transactions.

(8) Each nonresident pharmacy that ships, mails, or delivers legend drugs or devices into this state shall designate a resident agent in Washington for service of process. The designation of such an agent does not indicate that the nonresident pharmacy is a resident of Washington for tax purposes.

(9) The ~~((board))~~ commission shall attempt to develop a reciprocal licensing agreement for licensure of nonresident pharmacies with Health Canada or an applicable Canadian province. If the ~~((board))~~ commission is unable to develop such an agreement, the ~~((board))~~ commission shall develop a process to license participating Canadian nonresident pharmacies through on-site inspection and certification.

Sec. 23. RCW 18.64.390 and 1991 c 87 s 5 are each amended to read as follows:

(1) The ~~((board))~~ commission may deny, revoke, or suspend a nonresident pharmacy license or impose a fine not to exceed one thousand dollars per violation for failure to comply with any requirement of RCW 18.64.350 through 18.64.400.

(2) The ~~((board))~~ commission may deny, revoke, or suspend a nonresident pharmacy license or impose a fine not to exceed one thousand dollars per violation for conduct that causes serious bodily or psychological injury to a

resident of this state if the secretary has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and that regulatory or licensing agency fails to initiate an investigation within forty-five days of the referral under this subsection or fails to make a determination on the referral.

Sec. 24. RCW 18.64.410 and 1991 c 87 s 11 are each amended to read as follows:

The ((board)) commission may adopt rules to implement the provisions of RCW 18.64.350 through 18.64.400 and 18.64.420.

Sec. 25. RCW 18.64.420 and 2005 c 274 s 226 are each amended to read as follows:

All records, reports, and information obtained by the department from or on behalf of an entity licensed under chapter 48.20, 48.21, 48.44, or 48.46 RCW shall be confidential and exempt from inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigation or the proceedings of the ((board)) commission or the department so long as the ((board)) commission and the department comply with the provisions of chapter 42.56 RCW. Nothing in this section or in chapter 42.56 RCW shall restrict the ((board)) commission or the department from complying with any mandatory reporting requirements that exist or may exist under federal law, nor shall the ((board)) commission or the department be restricted from providing to any person the name of any nonresident pharmacy that is or has been licensed or disciplined under RCW 18.64.350 through 18.64.400.

Sec. 26. RCW 18.64.450 and 1995 c 319 s 3 are each amended to read as follows:

(1) In order for a health care entity to purchase, administer, dispense, and deliver legend drugs, the health care entity must be licensed by the department.

(2) In order for a health care entity to purchase, administer, dispense, and deliver controlled substances, the health care entity must annually obtain a license from the department in accordance with the ((board's)) commission's rules.

(3) The receipt, administration, dispensing, and delivery of legend drugs or controlled substances by a health care entity must be performed under the supervision or at the direction of a pharmacist.

(4) A health care entity may only administer, dispense, or deliver legend drugs and controlled substances to patients who receive care within the health care entity and in compliance with rules of the ((board)) commission. Nothing in this subsection shall prohibit a practitioner, in carrying out his or her licensed responsibilities within a health care entity, from dispensing or delivering to a patient of the health care entity drugs for that patient's personal use in an amount not to exceed seventy-two hours of usage.

Sec. 27. RCW 18.64.470 and 1995 c 319 s 6 are each amended to read as follows:

Every proprietor or manager of a health care entity shall keep readily available a suitable record of drugs, which shall preserve for a period of not less than two years the record of every drug used at such health care entity. The record shall be maintained either separately from all other records of the health care entity or in such form that the information required is readily retrievable

from ordinary business records of the health care entity. All recordkeeping requirements for controlled substances must be complied with. Such record of drugs shall be for confidential use in the health care entity, only. The record of drugs shall be open for inspection by the ((~~board of pharmacy~~)) commission, who is authorized to enforce chapter 18.64, 69.41, or 69.50 RCW.

Sec. 28. RCW 18.64.480 and 2005 c 275 s 4 are each amended to read as follows:

(1) By September 1, 2005, the ((~~board of pharmacy~~)) commission shall, in consultation with the department and the health care authority, submit a waiver request to the federal food and drug administration that authorizes the importation of prescription drugs from Canada.

(2) Upon approval of the federal waiver allowing for the importation of prescription drugs from Canada, the ((~~board~~)) commission, in consultation with the department and the health care authority, shall license Canadian pharmacies that provide services to Washington residents under RCW 18.64.350 and 18.64.360.

Sec. 29. RCW 18.64.490 and 2005 c 293 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

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

(d) To ensure that the program benefits those consumers without insurance coverage for prescription drugs who are most in need of price relief, prescription

drug purchases from pharmacies under the waiver will be limited to those not eligible for reimbursement by third party insurance coverage, whether public or private, for the particular drug being purchased; and

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

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

(3) The ((board)) commission shall adopt rules as necessary to implement chapter 293, Laws of 2005.

Sec. 30. RCW 18.64.500 and 2009 c 328 s 1 are each amended to read as follows:

(1) Effective July 1, 2010, every prescription written in this state by a licensed practitioner must be written on a tamper-resistant prescription pad or paper approved by the ((board)) commission.

(2) A pharmacist may not fill a written prescription from a licensed practitioner unless it is written on an approved tamper-resistant prescription pad or paper, except that a pharmacist may provide emergency supplies in accordance with the ((board)) commission and other insurance contract requirements.

(3) If a hard copy of an electronic prescription is given directly to the patient, the manually signed hard copy prescription must be on approved tamper-resistant paper that meets the requirements of this section.

(4) For the purposes of this section, "tamper-resistant prescription pads or paper" means a prescription pad or paper that has been approved by the ((board)) commission for use and contains the following characteristics:

(a) One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;

(b) One or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription form by the practitioner; and

(c) One or more industry-recognized features designed to prevent the use of counterfeit prescription forms.

(5) Practitioners shall employ reasonable safeguards to assure against theft or unauthorized use of prescriptions.

(6) All vendors must have their tamper-resistant prescription pads or paper approved by the ((board)) commission prior to the marketing or sale of pads or paper in Washington state.

(7) The ((board)) commission shall create a seal of approval that confirms that a pad or paper contains all three industry-recognized characteristics required by this section. The seal must be affixed to all prescription pads or paper used in this state.

(8) The ((board)) commission may adopt rules necessary for the administration of chapter 328, Laws of 2009.

(9) The tamper-resistant prescription pad or paper requirements in this section shall not apply to:

(a) Prescriptions that are transmitted to the pharmacy by telephone, facsimile, or electronic means; or

(b) Prescriptions written for inpatients of a hospital, outpatients of a hospital, residents of a nursing home, inpatients or residents of a mental health facility, or individuals incarcerated in a local, state, or federal correction facility, when the health care practitioner authorized to write prescriptions writes the order into the patient's medical or clinical record, the order is given directly to the pharmacy, and the patient never has the opportunity to handle the written order.

(10) All acts related to the prescribing, dispensing, and records maintenance of all prescriptions shall be in compliance with applicable federal and state laws, rules, and regulations.

Sec. 31. RCW 18.64.510 and 2009 c 411 s 2 are each amended to read as follows:

Nothing in this chapter or in any provision of law shall be interpreted to invest the (~~board~~) commission with the authority to regulate or establish standards regarding a jail as defined in RCW 70.48.020 that does not operate, in whole or in part, a pharmacy or a correctional pharmacy. This section does not limit the (~~board's~~) commission's authority to regulate a pharmacist that has entered into an agreement with a jail for the provision of pharmaceutical services.

Sec. 32. RCW 18.64A.010 and 1997 c 417 s 1 are each amended to read as follows:

Terms used in this chapter shall have the meaning set forth in this section unless the context clearly indicates otherwise:

(1) (~~"Board" means the state board of pharmacy;~~) "Commission" means the pharmacy quality assurance commission;

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

(3) "Pharmacist" means a person duly licensed by the (~~state board of pharmacy~~) commission to engage in the practice of pharmacy;

(4) "Pharmacy" means every place properly licensed by the (~~board of pharmacy~~) commission where the practice of pharmacy is conducted;

(5) "Pharmacy ancillary personnel" means pharmacy technicians and pharmacy assistants;

(6) "Pharmacy technician" means:

(a) A person who is enrolled in, or who has satisfactorily completed, a (~~board~~) commission-approved training program designed to prepare persons to perform nondiscretionary functions associated with the practice of pharmacy; or

(b) A person who is a graduate with a degree in pharmacy or medicine of a foreign school, university, or college recognized by the (~~board~~) commission;

(7) "Pharmacy assistant" means a person registered by the (~~board~~) commission to perform limited functions in the pharmacy;

(8) "Practice of pharmacy" means the definition given in RCW 18.64.011;

(9) "Secretary" means the secretary of health or the secretary's designee.

Sec. 33. RCW 18.64A.020 and 2011 c 71 s 1 are each amended to read as follows:

(1)(a) The ~~((board))~~ commission shall adopt, in accordance with chapter 34.05 RCW, rules fixing the classification and qualifications and the educational and training requirements for persons who may be employed as pharmacy technicians or who may be enrolled in any pharmacy technician training program. Such rules shall provide that:

(i) Licensed pharmacists shall supervise the training of pharmacy technicians;

(ii) Training programs shall assure the competence of pharmacy technicians to aid and assist pharmacy operations. Training programs shall consist of instruction and/or practical training; and

(iii) Pharmacy technicians shall complete continuing education requirements established in rule by the ~~((board))~~ commission.

(b) Such rules may include successful completion of examinations for applicants for pharmacy technician certificates. If such examination rules are adopted, the ~~((board))~~ commission shall prepare or determine the nature of, and supervise the grading of the examinations. The ~~((board))~~ commission may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The ~~((board))~~ commission may disapprove or revoke approval of any training program for failure to conform to ~~((board))~~ commission rules. In the case of the disapproval or revocation of approval of a training program by the ~~((board))~~ commission, a hearing shall be conducted in accordance with RCW 18.64.160, and appeal may be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

Sec. 34. RCW 18.64A.025 and 2011 c 32 s 5 are each amended to read as follows:

An applicant with military training or experience satisfies the training and experience requirements of this chapter unless the ~~((board))~~ commission determines that the military training or experience is not substantially equivalent to the standards of this state.

Sec. 35. RCW 18.64A.030 and 1997 c 417 s 3 are each amended to read as follows:

The ~~((board))~~ commission shall adopt, in accordance with chapter 34.05 RCW, rules governing the extent to which pharmacy ancillary personnel may perform services associated with the practice of pharmacy. These rules shall provide for the certification of pharmacy technicians by the department at a fee determined by the secretary under RCW 43.70.250:

(1) "Pharmacy technicians" may assist in performing, under the supervision and control of a licensed pharmacist, manipulative, nondiscretionary functions associated with the practice of pharmacy and other such duties and subject to such restrictions as the ~~((board))~~ commission may by rule adopt.

(2) "Pharmacy assistants" may perform, under the supervision of a licensed pharmacist, duties including but not limited to, typing of prescription labels, filing, refiling, bookkeeping, pricing, stocking, delivery, nonprofessional phone inquiries, and documentation of third party reimbursements and other such duties and subject to such restrictions as the ~~((board))~~ commission may by rule adopt.

Sec. 36. RCW 18.64A.040 and 1997 c 417 s 4 are each amended to read as follows:

(1) Pharmacy ancillary personnel shall practice pharmacy in this state only after authorization by the ((board)) commission and only to the extent permitted by the ((board)) commission in accordance with this chapter.

(2) A pharmacist shall be assisted by pharmacy ancillary personnel in the practice of pharmacy in this state only after authorization by the ((board)) commission and only to the extent permitted by the ((board)) commission in accordance with this chapter: PROVIDED, That no pharmacist may supervise more than one pharmacy technician: PROVIDED FURTHER, That in pharmacies operating in connection with facilities licensed pursuant to chapter 70.41, 71.12, 71A.20, or 74.42 RCW, whether or not situated within the said facility which shall be physically separated from any area of a pharmacy where dispensing of prescriptions to the general public occurs, the ratio of pharmacists to pharmacy technicians shall be as follows: In the preparation of medicine or other materials used by patients within the facility, one pharmacist supervising no more than three pharmacy technicians; in the preparation of medicine or other materials dispensed to persons not patients within the facility, one pharmacist supervising not more than one pharmacy technician.

(3) The ((board)) commission may by rule modify the standard ratios set out in subsection (2) of this section governing the utilization of pharmacy technicians by pharmacies and pharmacists. Should a pharmacy desire to use more pharmacy technicians than the standard ratios, the pharmacy must submit to the ((board)) commission a pharmacy services plan for approval.

(a) The pharmacy services plan shall include, at a minimum, the following information: Pharmacy design and equipment, information systems, workflow, and quality assurance procedures. In addition, the pharmacy services plan shall demonstrate how it facilitates the provision of pharmaceutical care by the pharmacy.

(b) Prior to approval of a pharmacy services plan, the ((board)) commission may require additional information to ensure appropriate oversight of pharmacy ancillary personnel.

(c) The ((board)) commission may give conditional approval for pilot or demonstration projects.

(d) Variance from the approved pharmacy services plan is grounds for disciplinary action under RCW 18.64A.050.

Sec. 37. RCW 18.64A.050 and 1997 c 417 s 5 are each amended to read as follows:

In addition to the grounds under RCW 18.130.170 and 18.130.180, the ((board of pharmacy)) commission may take disciplinary action against the certificate of any pharmacy technician upon proof that:

(1) His or her certificate was procured through fraud, misrepresentation or deceit;

(2) He or she has been found guilty of any offense in violation of the laws of this state relating to drugs, poisons, cosmetics or drug sundries by any court of competent jurisdiction. Nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

(3) He or she has exhibited gross incompetency in the performance of his or her duties;

(4) He or she has willfully or repeatedly violated any of the rules and regulations of the ((board of pharmacy)) commission or of the department;

(5) He or she has willfully or repeatedly performed duties beyond the scope of his or her certificate in violation of the provisions of this chapter; or

(6) He or she has impersonated a licensed pharmacist.

Sec. 38. RCW 18.64A.060 and 1997 c 417 s 6 are each amended to read as follows:

No pharmacy licensed in this state shall utilize the services of pharmacy ancillary personnel without approval of the ((board)) commission.

Any pharmacy licensed in this state may apply to the ((board)) commission for permission to use the services of pharmacy ancillary personnel. The application shall be accompanied by a fee and shall comply with administrative procedures and administrative requirements set pursuant to RCW 43.70.250 and 43.70.280, shall detail the manner and extent to which the pharmacy ancillary personnel would be used and supervised, and shall provide other information in such form as the secretary may require.

The ((board)) commission may approve or reject such applications. In addition, the ((board)) commission may modify the proposed utilization of pharmacy ancillary personnel and approve the application as modified. Whenever it appears to the ((board)) commission that pharmacy ancillary personnel are being utilized in a manner inconsistent with the approval granted, the ((board)) commission may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of approval, a hearing shall be conducted in accordance with chapter 18.64 RCW, as now or hereafter amended, and appeal may be taken in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

Sec. 39. RCW 18.64A.070 and 1997 c 417 s 7 are each amended to read as follows:

(1) Persons presently assisting a pharmacist by performing the functions of a pharmacy technician may continue to do so under the supervision of a licensed pharmacist: PROVIDED, That within eighteen months after May 28, 1977, such persons shall be in compliance with the provisions of this chapter.

(2) Pharmacies presently employing persons to perform the functions of a pharmacy technician may continue to do so while obtaining ((board)) commission approval for the use of certified pharmacy technicians: PROVIDED, That within eighteen months after May 28, 1977, such pharmacies shall be in compliance with the provisions of this chapter.

Sec. 40. RCW 18.64A.080 and 1997 c 417 s 8 are each amended to read as follows:

A pharmacy or pharmacist which utilizes the services of pharmacy ancillary personnel with approval by the ((board)) commission, is not aiding and abetting an unlicensed person to practice pharmacy within the meaning of chapter 18.64 RCW: PROVIDED, HOWEVER, That the pharmacy or pharmacist shall retain responsibility for any act performed by pharmacy ancillary personnel in the course of employment.

Sec. 41. RCW 18.92.012 and 1991 c 47 s 1 are each amended to read as follows:

A veterinarian licensed under this chapter may dispense veterinary legend drugs prescribed by other veterinarians licensed under this chapter, so long as, during any year, the total drugs so dispensed do not constitute more than five percent of the total dosage units of legend drugs the veterinarian dispenses and the veterinarian maintains records of his or her dispensing activities consistent with the requirements of chapters 18.64, 69.04, 69.41, and 69.50 RCW. For purposes of this section, a "veterinary legend drug" is a legend drug, as defined in chapter 69.41 RCW, which is either: (1) Restricted to use by licensed veterinarians by any law or regulation of the federal government, or (2) designated by rule by the (~~state board of pharmacy~~) pharmacy quality assurance commission as being a legend drug that one licensed veterinarian may dispense for another licensed veterinarian under this section.

Sec. 42. RCW 18.92.013 and 2009 c 136 s 1 are each amended to read as follows:

(1) A veterinarian legally prescribing drugs may delegate to a registered veterinary medication clerk, while under the veterinarian's direct supervision, certain nondiscretionary functions defined by the board and used in the preparing of legend and nonlegend drugs (except controlled substances as defined in or under chapter 69.50 RCW) associated with the practice of veterinary medicine. A veterinarian legally prescribing drugs may delegate to a licensed veterinary technician, while under the veterinarian's indirect supervision, certain nondiscretionary functions defined by the board and used in the preparing of legend drugs, nonlegend drugs, and controlled substances associated with the practice of veterinary medicine. Upon final approval of the packaged prescription following a direct physical inspection of the packaged prescription for proper formulation, packaging, and labeling by the veterinarian, the veterinarian may delegate the delivery of the prescription to a registered veterinary medication clerk or licensed veterinary technician, while under the veterinarian's indirect supervision. Dispensing of drugs by veterinarians, licensed veterinary technicians, and registered veterinary medication clerks shall meet the applicable requirements of chapters 18.64, 69.40, 69.41, and 69.50 RCW and is subject to inspection by the (~~board of pharmacy~~) pharmacy quality assurance commission investigators.

(2) A licensed veterinary technician may administer legend drugs under chapter 69.41 RCW and controlled substances under chapter 69.50 RCW under indirect supervision of a veterinarian.

(3) For the purposes of this section:

(a) "Direct supervision" means the veterinarian is on the premises and is quickly and easily available; and

(b) "Indirect supervision" means the veterinarian is not on the premises but has given written or oral instructions for the delegated task.

Sec. 43. RCW 18.92.015 and 2007 c 235 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) "Board" means the Washington state veterinary board of governors.

(2) "Department" means the department of health.

(3) "Secretary" means the secretary of the department of health.

(4) "Veterinary medication clerk" means a person who has satisfactorily completed a board-approved training program developed in consultation with the ~~(board of pharmacy)~~ pharmacy quality assurance commission and designed to prepare persons to perform certain nondiscretionary functions defined by the board and used in the dispensing of legend and nonlegend drugs (except controlled substances as defined in or under chapter 69.50 RCW) associated with the practice of veterinary medicine.

(5) "Veterinary technician" means a person who is licensed by the board upon meeting the requirements of RCW 18.92.128.

Sec. 44. RCW 18.130.040 and 2012 c 208 s 10, 2012 c 153 s 16, 2012 c 137 s 19, and 2012 c 23 s 6 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 practitioners and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Health care assistants certified under chapter 18.135 RCW;

(xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;

(xvi) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xviii) Denturists licensed under chapter 18.30 RCW;

(xix) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xx) Surgical technologists registered under chapter 18.215 RCW;

(xxi) Recreational therapists under chapter 18.230 RCW;
 (xxii) Animal massage practitioners certified under chapter 18.240 RCW;
 (xxiii) Athletic trainers licensed under chapter 18.250 RCW;
 (xxiv) Home care aides certified under chapter 18.88B RCW;
 (xxv) Genetic counselors licensed under chapter 18.290 RCW; ~~((and))~~
 (xxvi) Reflexologists certified under chapter 18.108 RCW; and
 (xxvii) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

- (i) The podiatric medical board as established in chapter 18.22 RCW;
- (ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;
- (iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;
- (iv) The board of hearing and speech as established in chapter 18.35 RCW;
- (v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;
- (vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
- (vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;
- (viii) The ~~((board of pharmacy))~~ pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;
- (ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;
- (x) The board of physical therapy as established in chapter 18.74 RCW;
- (xi) The board of occupational therapy practice as established in chapter 18.59 RCW;
- (xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;
- (xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;
- (xiv) The veterinary board of governors as established in chapter 18.92 RCW; and
- (xv) The board of naturopathy established in chapter 18.36A 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. 45. RCW 18.130.040 and 2012 c 208 s 10, 2012 c 153 s 17, 2012 c 137 s 19, and 2012 c 23 s 6 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 practitioners and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—-independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Denturists licensed under chapter 18.30 RCW;

(xviii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xix) Surgical technologists registered under chapter 18.215 RCW;

(xx) Recreational therapists under chapter 18.230 RCW;

(xxi) Animal massage practitioners certified under chapter 18.240 RCW;

(xxii) Athletic trainers licensed under chapter 18.250 RCW;

(xxiii) Home care aides certified under chapter 18.88B RCW;

(xxiv) Genetic counselors licensed under chapter 18.290 RCW; ~~(and)~~

(xxv) Reflexologists certified under chapter 18.108 RCW; and

(xxvi) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;
(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The ~~(board of pharmacy)~~ pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xiv) The veterinary board of governors as established in chapter 18.92 RCW; and

(xv) The board of naturopathy established in chapter 18.36A 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. 46. RCW 28B.115.020 and 2011 1st sp.s. c 11 s 204 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) "Credentialed health care profession" means a health care profession regulated by a disciplining authority in the state of Washington under RCW 18.130.040 or by the ~~(state board of pharmacy)~~ pharmacy quality assurance commission under chapter 18.64 RCW and designated by the department in

RCW 28B.115.070 as a profession having shortages of credentialed health care professionals in the state.

(2) "Credentialed health care professional" means a person regulated by a disciplining authority in the state of Washington to practice a health care profession under RCW 18.130.040 or by the ~~((state board of pharmacy))~~ pharmacy quality assurance commission under chapter 18.64 RCW.

(3) "Department" means the state department of health.

(4) "Eligible education and training programs" means education and training programs approved by the department that lead to eligibility for a credential as a credentialed health care professional.

(5) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the office.

(6) "Eligible student" means a student who has been accepted into an eligible education or training program and has a declared intention to serve in a health professional shortage area upon completion of the education or training program.

(7) "Forgiven" or "to forgive" or "forgiveness" means to render health care services in a health professional shortage area in the state of Washington in lieu of monetary repayment.

(8) "Health professional shortage areas" means those areas where credentialed health care professionals are in short supply as a result of geographic maldistribution or as the result of a short supply of credentialed health care professionals in specialty health care areas and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department shall determine health professional shortage areas as provided for in RCW 28B.115.070. In making health professional shortage area designations in the state the department may be guided by applicable federal standards for "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(9) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area as defined by the department.

(10) "Nonshortage rural area" means a nonurban area of the state of Washington that has not been designated as a rural physician shortage area. The department shall identify the nonshortage rural areas of the state.

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

(12) "Participant" means a credentialed health care professional who has received a loan repayment award and has commenced practice as a credentialed health care provider in a designated health professional shortage area or an eligible student who has received a scholarship under this program.

(13) "Program" means the health professional loan repayment and scholarship program.

(14) "Required service obligation" means an obligation by the participant to provide health care services in a health professional shortage area for a period to be established as provided for in this chapter.

(15) "Rural physician shortage area" means rural geographic areas where primary care physicians are in short supply as a result of geographic maldistributions and where their limited numbers jeopardize patient care and

pose a threat to public health and safety. The department shall designate rural physician shortage areas.

(16) "Satisfied" means paid-in-full.

(17) "Scholarship" means a loan that is forgiven in whole or in part if the recipient renders health care services in a health professional shortage area.

(18) "Sponsoring community" means a rural hospital or hospitals as authorized in chapter 70.41 RCW, a rural health care facility or facilities as authorized in chapter 70.175 RCW, or a city or county government or governments.

Sec. 47. RCW 42.56.360 and 2010 c 128 s 3 and 2010 c 52 s 6 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the (~~board of pharmacy~~) pharmacy quality assurance commission as provided in RCW 69.45.090;

(b) Information obtained by the (~~board of pharmacy~~) pharmacy quality assurance commission or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510, 70.230.080, or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, or by a hospital, as defined in RCW 43.70.056, for reporting of health care-associated infections under RCW 43.70.056, a notification of an incident under RCW 70.56.040(5), and reports regarding adverse events under RCW 70.56.020(2)(b), regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1);

(g) Information obtained by the department of health under chapter 70.225 RCW;

(h) Information collected by the department of health under chapter 70.245 RCW except as provided in RCW 70.245.150;

(i) Cardiac and stroke system performance data submitted to national, state, or local data collection systems under RCW 70.168.150(2)(b); and

(j) All documents, including completed forms, received pursuant to a wellness program under RCW 41.04.362, but not statistical reports that do not identify an individual.

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

(3)(a) Documents related to infant mortality reviews conducted pursuant to RCW 70.05.170 are exempt from disclosure as provided for in RCW 70.05.170(3).

(b)(i) If an agency provides copies of public records to another agency that are exempt from public disclosure under this subsection (3), those records remain exempt to the same extent the records were exempt in the possession of the originating entity.

(ii) For notice purposes only, agencies providing exempt records under this subsection (3) to other agencies may mark any exempt records as "exempt" so that the receiving agency is aware of the exemption, however whether or not a record is marked exempt does not affect whether the record is actually exempt from disclosure.

Sec. 48. RCW 51.36.010 and 2011 c 6 s 1 are each amended to read as follows:

(1) The legislature finds that high quality medical treatment and adherence to occupational health best practices can prevent disability and reduce loss of family income for workers, and lower labor and insurance costs for employers. Injured workers deserve high quality medical care in accordance with current health care best practices. To this end, the department shall establish minimum standards for providers who treat workers from both state fund and self-insured employers. The department shall establish a health care provider network to treat injured workers, and shall accept providers into the network who meet those minimum standards. The department shall convene an advisory group made up of representatives from or designees of the workers' compensation advisory committee and the industrial insurance medical and chiropractic advisory committees to consider and advise the department related to implementation of this section, including development of best practices treatment guidelines for providers in the network. The department shall also seek the input of various health care provider groups and associations concerning the network's implementation. Network providers must be required to follow the department's evidence-based coverage decisions and treatment guidelines, policies, and must be expected to follow other national treatment guidelines appropriate for their patient. The department, in collaboration with the advisory group, shall also establish additional best practice standards for providers to qualify for a second tier within the network, based on demonstrated use of occupational health best practices. This second tier is separate from and in addition to the centers for occupational health and education established under subsection (5) of this section.

(2)(a) Upon the occurrence of any injury to a worker entitled to compensation under the provisions of this title, he or she shall receive proper and necessary medical and surgical services at the hands of a physician or licensed advanced registered nurse practitioner of his or her own choice, if conveniently

located, except as provided in (b) of this subsection, and proper and necessary hospital care and services during the period of his or her disability from such injury.

(b) Once the provider network is established in the worker's geographic area, an injured worker may receive care from a nonnetwork provider only for an initial office or emergency room visit. However, the department or self-insurer may limit reimbursement to the department's standard fee for the services. The provider must comply with all applicable billing policies and must accept the department's fee schedule as payment in full.

(c) The department, in collaboration with the advisory group, shall adopt policies for the development, credentialing, accreditation, and continued oversight of a network of health care providers approved to treat injured workers. Health care providers shall apply to the network by completing the department's provider application which shall have the force of a contract with the department to treat injured workers. The advisory group shall recommend minimum network standards for the department to approve a provider's application, to remove a provider from the network, or to require peer review such as, but not limited to:

(i) Current malpractice insurance coverage exceeding a dollar amount threshold, number, or seriousness of malpractice suits over a specific time frame;

(ii) Previous malpractice judgments or settlements that do not exceed a dollar amount threshold recommended by the advisory group, or a specific number or seriousness of malpractice suits over a specific time frame;

(iii) No licensing or disciplinary action in any jurisdiction or loss of treating or admitting privileges by any board, commission, agency, public or private health care payer, or hospital;

(iv) For some specialties such as surgeons, privileges in at least one hospital;

(v) Whether the provider has been credentialed by another health plan that follows national quality assurance guidelines; and

(vi) Alternative criteria for providers that are not credentialed by another health plan.

The department shall develop alternative criteria for providers that are not credentialed by another health plan or as needed to address access to care concerns in certain regions.

(d) Network provider contracts will automatically renew at the end of the contract period unless the department provides written notice of changes in contract provisions or the department or provider provides written notice of contract termination. The industrial insurance medical advisory committee shall develop criteria for removal of a provider from the network to be presented to the department and advisory group for consideration in the development of contract terms.

(e) In order to monitor quality of care and assure efficient management of the provider network, the department shall establish additional criteria and terms for network participation including, but not limited to, requiring compliance with administrative and billing policies.

(f) The advisory group shall recommend best practices standards to the department to use in determining second tier network providers. The department shall develop and implement financial and nonfinancial incentives for network

providers who qualify for the second tier. The department is authorized to certify and decertify second tier providers.

(3) The department shall work with self-insurers and the department utilization review provider to implement utilization review for the self-insured community to ensure consistent quality, cost-effective care for all injured workers and employers, and to reduce administrative burden for providers.

(4) The department for state fund claims shall pay, in accordance with the department's fee schedule, for any alleged injury for which a worker files a claim, any initial prescription drugs provided in relation to that initial visit, without regard to whether the worker's claim for benefits is allowed. In all accepted claims, treatment shall be limited in point of duration as follows:

In the case of permanent partial disability, not to extend beyond the date when compensation shall be awarded him or her, except when the worker returned to work before permanent partial disability award is made, in such case not to extend beyond the time when monthly allowances to him or her shall cease; in case of temporary disability not to extend beyond the time when monthly allowances to him or her shall cease: PROVIDED, That after any injured worker has returned to his or her work his or her medical and surgical treatment may be continued if, and so long as, such continuation is deemed necessary by the supervisor of industrial insurance to be necessary to his or her more complete recovery; in case of a permanent total disability not to extend beyond the date on which a lump sum settlement is made with him or her or he or she is placed upon the permanent pension roll: PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely in his or her discretion, may authorize continued medical and surgical treatment for conditions previously accepted by the department when such medical and surgical treatment is deemed necessary by the supervisor of industrial insurance to protect such worker's life or provide for the administration of medical and therapeutic measures including payment of prescription medications, but not including those controlled substances currently scheduled by the (~~state board of pharmacy~~) pharmacy quality assurance commission as Schedule I, II, III, or IV substances under chapter 69.50 RCW, which are necessary to alleviate continuing pain which results from the industrial injury. In order to authorize such continued treatment the written order of the supervisor of industrial insurance issued in advance of the continuation shall be necessary.

The supervisor of industrial insurance, the supervisor's designee, or a self-insurer, in his or her sole discretion, may authorize inoculation or other immunological treatment in cases in which a work-related activity has resulted in probable exposure of the worker to a potential infectious occupational disease. Authorization of such treatment does not bind the department or self-insurer in any adjudication of a claim by the same worker or the worker's beneficiary for an occupational disease.

(5)(a) The legislature finds that the department and its business and labor partners have collaborated in establishing centers for occupational health and education to promote best practices and prevent preventable disability by focusing additional provider-based resources during the first twelve weeks following an injury. The centers for occupational health and education represent innovative accountable care systems in an early stage of development consistent

with national health care reform efforts. Many Washington workers do not yet have access to these innovative health care delivery models.

(b) To expand evidence-based occupational health best practices, the department shall establish additional centers for occupational health and education, with the goal of extending access to at least fifty percent of injured and ill workers by December 2013 and to all injured workers by December 2015. The department shall also develop additional best practices and incentives that span the entire period of recovery, not only the first twelve weeks.

(c) The department shall certify and decertify centers for occupational health and education based on criteria including institutional leadership and geographic areas covered by the center for occupational health and education, occupational health leadership and education, mix of participating health care providers necessary to address the anticipated needs of injured workers, health services coordination to deliver occupational health best practices, indicators to measure the success of the center for occupational health and education, and agreement that the center's providers shall, if feasible, treat certain injured workers if referred by the department or a self-insurer.

(d) Health care delivery organizations may apply to the department for certification as a center for occupational health and education. These may include, but are not limited to, hospitals and affiliated clinics and providers, multispecialty clinics, health maintenance organizations, and organized systems of network physicians.

(e) The centers for occupational health and education shall implement benchmark quality indicators of occupational health best practices for individual providers, developed in collaboration with the department. A center for occupational health and education shall remove individual providers who do not consistently meet these quality benchmarks.

(f) The department shall develop and implement financial and nonfinancial incentives for center for occupational health and education providers that are based on progressive and measurable gains in occupational health best practices, and that are applicable throughout the duration of an injured or ill worker's episode of care.

(g) The department shall develop electronic methods of tracking evidence-based quality measures to identify and improve outcomes for injured workers at risk of developing prolonged disability. In addition, these methods must be used to provide systematic feedback to physicians regarding quality of care, to conduct appropriate objective evaluation of progress in the centers for occupational health and education, and to allow efficient coordination of services.

(6) If a provider fails to meet the minimum network standards established in subsection (2) of this section, the department is authorized to remove the provider from the network or take other appropriate action regarding a provider's participation. The department may also require remedial steps as a condition for a provider to participate in the network. The department, with input from the advisory group, shall establish waiting periods that may be imposed before a provider who has been denied or removed from the network may reapply.

(7) The department may permanently remove a provider from the network or take other appropriate action when the provider exhibits a pattern of conduct of low quality care that exposes patients to risk of physical or psychiatric harm

or death. Patterns that qualify as risk of harm include, but are not limited to, poor health care outcomes evidenced by increased, chronic, or prolonged pain or decreased function due to treatments that have not been shown to be curative, safe, or effective or for which it has been shown that the risks of harm exceed the benefits that can be reasonably expected based on peer-reviewed opinion.

(8) The department may not remove a health care provider from the network for an isolated instance of poor health and recovery outcomes due to treatment by the provider.

(9) When the department terminates a provider from the network, the department or self-insurer shall assist an injured worker currently under the provider's care in identifying a new network provider or providers from whom the worker can select an attending or treating provider. In such a case, the department or self-insurer shall notify the injured worker that he or she must choose a new attending or treating provider.

(10) The department may adopt rules related to this section.

(11) The department shall report to the workers' compensation advisory committee and to the appropriate committees of the legislature on each December 1st, beginning in 2012 and ending in 2016, on the implementation of the provider network and expansion of the centers for occupational health and education. The reports must include a summary of actions taken, progress toward long-term goals, outcomes of key initiatives, access to care issues, results of disputes or controversies related to new provisions, and whether any changes are needed to further improve the occupational health best practices care of injured workers.

Sec. 49. RCW 64.44.010 and 2006 c 339 s 201 are each amended to read as follows:

The words and phrases defined in this section shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

(1) "Authorized contractor" means a person who decontaminates, demolishes, or disposes of contaminated property as required by this chapter who is certified by the department as provided for in RCW 64.44.060.

(2) "Contaminated" or "contamination" means polluted by hazardous chemicals so that the property is unfit for human habitation or use due to immediate or long-term hazards. Property that at one time was contaminated but has been satisfactorily decontaminated according to procedures established by the state board of health is not "contaminated."

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

(4) "Hazardous chemicals" means the following substances associated with the illegal manufacture of controlled substances: (a) Hazardous substances as defined in RCW 70.105D.020; (b) precursor substances as defined in RCW 69.43.010 which the state board of health, in consultation with the (~~state board of pharmacy~~) pharmacy quality assurance commission, has determined present an immediate or long-term health hazard to humans; and (c) the controlled substance or substances being manufactured, as defined in RCW 69.50.101.

(5) "Officer" means a local health officer authorized under chapters 70.05, 70.08, and 70.46 RCW.

(6) "Property" means any real or personal property, or segregable part thereof, that is involved in or affected by the unauthorized manufacture,

distribution, or storage of hazardous chemicals. This includes but is not limited to single-family residences, units of multiplexes, condominiums, apartment buildings, boats, motor vehicles, trailers, manufactured housing, any shop, booth, garden, or storage shed, and all contents of the items referenced in this subsection.

Sec. 50. RCW 69.04.565 and 1981 c 50 s 1 are each amended to read as follows:

Notwithstanding any other provision of state law, DMSO (dimethyl sulfoxide) may be introduced into intrastate commerce as long as (1) it is manufactured or distributed by persons licensed pursuant to chapter 18.64 RCW or chapter 18.92 RCW, and (2) it is used, or intended to be used, in the treatment of human beings or animals for any ailment or adverse condition: PROVIDED, That DMSO intended for topical application, consistent with rules governing purity and labeling promulgated by the (~~state board of pharmacy~~) pharmacy quality assurance commission, shall not be considered a legend drug and may be sold by any retailer.

Sec. 51. RCW 69.04.730 and 1947 c 25 s 91 are each amended to read as follows:

The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the director: PROVIDED, HOWEVER, That the director shall designate the (~~Washington state board of pharmacy~~) pharmacy quality assurance commission to carry out all the provisions of this chapter pertaining to drugs and cosmetics, with authority to promulgate regulations for the efficient enforcement thereof.

Sec. 52. RCW 69.38.010 and 1987 c 34 s 1 are each amended to read as follows:

As used in this chapter "poison" means:

- (1) Arsenic and its preparations;
- (2) Cyanide and its preparations, including hydrocyanic acid;
- (3) Strychnine; and

(4) Any other substance designated by the (~~state board of pharmacy~~) pharmacy quality assurance commission which, when introduced into the human body in quantities of sixty grains or less, causes violent sickness or death.

Sec. 53. RCW 69.38.060 and 1989 1st ex.s. c 9 s 440 are each amended to read as follows:

The (~~state board of pharmacy~~) pharmacy quality assurance commission, after consulting with the department of health, shall require and provide for the annual licensure of every person now or hereafter engaged in manufacturing or selling poisons within this state. Upon a payment of a fee as set by the department, the department shall issue a license in such form as it may prescribe to such manufacturer or seller. Such license shall be displayed in a conspicuous place in such manufacturer's or seller's place of business for which it is issued.

Any person manufacturing or selling poison within this state without a license is guilty of a misdemeanor.

Sec. 54. RCW 69.40.055 and 1981 c 147 s 4 are each amended to read as follows:

It shall be unlawful for any person to sell at retail or furnish any repackaged poison drug or product without affixing or causing to be affixed to the bottle,

box, vessel, or package a label containing the name of the article, all labeling required by the Food and Drug Administration and other federal or state laws or regulations, and the word "poison" distinctly shown with the name and place of the business of the seller.

This section shall not apply to the dispensing of drugs or poisons on the prescription of a practitioner.

The (~~board of pharmacy~~) pharmacy quality assurance commission shall have the authority to promulgate rules for the enforcement and implementation of this section.

Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 55. RCW 69.41.010 and 2012 c 10 s 44 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) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Community-based care settings" include: Community residential programs for the developmentally disabled, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and assisted living facilities licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(3) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(4) "Department" means the department of health.

(5) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(6) "Dispenser" means a practitioner who dispenses.

(7) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(8) "Distributor" means a person who distributes.

(9) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of human beings or animals; and

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(10) "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a legend drug between an authorized practitioner and a pharmacy or the transfer of prescription information for a legend drug from one pharmacy to another pharmacy.

(11) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(12) "Legend drugs" means any drugs which are required by state law or regulation of the (~~state board of pharmacy~~) pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(13) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(14) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

(15) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(16) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

(17) "Secretary" means the secretary of health or the secretary's designee.

Sec. 56. RCW 69.41.075 and 1989 1st ex.s. c 9 s 427 are each amended to read as follows:

The (~~state board of pharmacy~~) pharmacy quality assurance commission may make such rules for the enforcement of this chapter as are deemed necessary or advisable. The (~~board~~) commission shall identify, by rule-making pursuant to chapter 34.05 RCW, those drugs which may be dispensed only on prescription or are restricted to use by practitioners, only. In so doing the (~~board~~) commission shall consider the toxicity or other potentiality for harmful effect of the drug, the method of its use, and any collateral safeguards necessary to its use. The (~~board~~) commission shall classify a drug as a legend drug where these considerations indicate the drug is not safe for use except under the supervision of a practitioner.

In identifying legend drugs the (~~board~~) commission may incorporate in its rules lists of drugs contained in commercial pharmaceutical publications by making specific reference to each such list and the date and edition of the commercial publication containing it. Any such lists so incorporated shall be available for public inspection at the headquarters of the department of health and shall be available on request from the department of health upon payment of a reasonable fee to be set by the department.

Sec. 57. RCW 69.41.080 and 1989 c 242 s 1 are each amended to read as follows:

Humane societies and animal control agencies registered with the (~~state board of pharmacy~~) pharmacy quality assurance commission under chapter 69.50 RCW and authorized to euthanize animals may purchase, possess, and administer approved legend drugs for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs. For the purposes of this section, "approved legend drugs" means those legend drugs designated by the (~~board~~) commission by rule as being approved for use by such societies and agencies for animal sedating or capture and does not include any substance regulated under chapter 69.50 RCW. Any society or agency so registered shall not permit persons to administer any legend drugs unless such person has demonstrated to the satisfaction of the (~~board~~) commission adequate knowledge of the potential hazards involved in and the proper techniques to be used in administering the drugs.

The (~~board~~) commission shall promulgate rules to regulate the purchase, possession, and administration of legend drugs by such societies and agencies and to insure strict compliance with the provisions of this section. Such rules shall require that the storage, inventory control, administration, and recordkeeping for approved legend drugs conform to the standards adopted by the (~~board~~) commission under chapter 69.50 RCW to regulate the use of

controlled substances by such societies and agencies. The ~~((board))~~ commission may suspend or revoke a registration under chapter 69.50 RCW upon a determination by the ~~((board))~~ commission that the person administering legend drugs has not demonstrated adequate knowledge as herein provided. This authority is granted in addition to any other power to suspend or revoke a registration as provided by law.

Sec. 58. RCW 69.41.180 and 1979 c 110 s 7 are each amended to read as follows:

The ~~((state board of pharmacy))~~ pharmacy quality assurance commission may adopt any necessary rules under chapter 34.05 RCW for the implementation, continuation, or enforcement of RCW 69.41.100 through 69.41.180, including, but not limited to, a list of therapeutically or nontherapeutically equivalent drugs which, when adopted, shall be provided to all registered pharmacists in the state and shall be updated as necessary.

Sec. 59. RCW 69.41.210 and 1980 c 83 s 2 are each amended to read as follows:

The terms defined in this section shall have the meanings indicated when used in RCW 69.41.200 through 69.41.260.

(1) "Distributor" means any corporation, person, or other entity which distributes for sale a legend drug under its own label even though it is not the actual manufacturer of the legend drug.

(2) "Solid dosage form" means capsules or tablets or similar legend drug products intended for administration and which could be ingested orally.

(3) "Legend drug" means any drugs which are required by state law or regulation of the ~~((board))~~ commission to be dispensed as prescription only or are restricted to use by prescribing practitioners only and shall include controlled substances in Schedules II through V of chapter 69.50 RCW.

(4) ~~(("Board" means the state board of pharmacy.))~~ "Commission" means the pharmacy quality assurance commission.

Sec. 60. RCW 69.41.240 and 1980 c 83 s 5 are each amended to read as follows:

The ~~((board))~~ commission shall have authority to promulgate rules and regulations for the enforcement and implementation of RCW 69.41.050 and 69.41.200 through 69.41.260.

Sec. 61. RCW 69.41.250 and 1980 c 83 s 6 are each amended to read as follows:

(1) The ~~((board))~~ commission, upon application of a manufacturer, may exempt a particular legend drug from the requirements of RCW 69.41.050 and 69.41.200 through 69.41.260 on the grounds that imprinting is infeasible because of size, texture, or other unique characteristics.

(2) The provisions of RCW 69.41.050 and 69.41.200 through 69.41.260 shall not apply to any legend drug which is prepared or manufactured by a pharmacy in this state and is for the purpose of retail sale from such pharmacy and not intended for resale.

Sec. 62. RCW 69.41.280 and 2005 c 274 s 329 are each amended to read as follows:

All records, reports, and information obtained by the ~~((board))~~ pharmacy quality assurance commission or its authorized representatives from or on behalf

of a pharmaceutical manufacturer, representative of a manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigations or the proceedings of the ~~((board))~~ commission so long as the ~~((board))~~ commission and its authorized representatives comply with the provisions of chapter 42.56 RCW.

Sec. 63. RCW 69.41.310 and 1989 c 369 s 2 are each amended to read as follows:

The ~~((state board of pharmacy))~~ pharmacy quality assurance commission shall specify by rule drugs to be classified as steroids as defined in RCW 69.41.300.

On or before December 1 of each year, the ~~((board))~~ commission shall inform the appropriate legislative committees of reference of the drugs that the ~~((board))~~ commission has added to the steroids in RCW 69.41.300. The ~~((board))~~ commission shall submit a statement of rationale for the changes.

Sec. 64. RCW 69.43.010 and 2001 c 96 s 2 are each amended to read as follows:

(1) A report to the ~~((state board of pharmacy))~~ pharmacy quality assurance commission shall be submitted in accordance with this chapter by a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to any person any of the following substances or their salts or isomers:

- (a) Anthranilic acid;
- (b) Barbituric acid;
- (c) Chlorephedrine;
- (d) Diethyl malonate;
- (e) D-lysergic acid;
- (f) Ephedrine;
- (g) Ergotamine tartrate;
- (h) Ethylamine;
- (i) Ethyl malonate;
- (j) Ethylephedrine;
- (k) Lead acetate;
- (l) Malonic acid;
- (m) Methylamine;
- (n) Methylformamide;
- (o) Methylephedrine;
- (p) Methylpseudoephedrine;
- (q) N-acetylanthranilic acid;
- (r) Norpseudoephedrine;
- (s) Phenylacetic acid;
- (t) Phenylpropanolamine;
- (u) Piperidine;
- (v) Pseudoephedrine; and
- (w) Pyrrolidine.

(2) The ~~((state board of pharmacy))~~ pharmacy quality assurance commission shall administer this chapter and may, by rule adopted pursuant to

chapter 34.05 RCW, add a substance to or remove a substance from the list in subsection (1) of this section. In determining whether to add or remove a substance, the (~~board~~) commission shall consider the following:

(a) The likelihood that the substance is useable as a precursor in the illegal production of a controlled substance as defined in chapter 69.50 RCW;

(b) The availability of the substance;

(c) The relative appropriateness of including the substance in this chapter or in chapter 69.50 RCW; and

(d) The extent and nature of legitimate uses for the substance.

(3)(a) Any manufacturer, wholesaler, retailer, or other person shall, before selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section to any person, require proper identification from the purchaser.

(b) For the purposes of this subsection, "proper identification" means:

(i) A motor vehicle operator's license or other official state-issued identification of the purchaser containing a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number;

(ii) The motor vehicle license number of any motor vehicle owned or operated by the purchaser;

(iii) A letter of authorization from any business for which any substance specified in subsection (1) of this section is being furnished, which includes the business license number and address of the business;

(iv) A description of how the substance is to be used; and

(v) The signature of the purchaser.

The person selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section shall affix his or her signature as a witness to the signature and identification of the purchaser.

(c) A violation of or a failure to comply with this subsection is a misdemeanor.

(4) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subsection (1) of this section to any person shall, not less than twenty-one days before delivery of the substance, submit a report of the transaction, which includes the identification information specified in subsection (3) of this section to the (~~state board of pharmacy~~) pharmacy quality assurance commission. However, the (~~state board of pharmacy~~) pharmacy quality assurance commission may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the (~~state board of pharmacy~~) pharmacy quality assurance commission determines that either of the following exist:

(a) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance; or

(b) The recipient has established a record of using the substance for lawful purposes.

(5) Any person specified in subsection (4) of this section who does not submit a report as required by subsection (4) of this section is guilty of a gross misdemeanor.

Sec. 65. RCW 69.43.020 and 2001 c 96 s 3 are each amended to read as follows:

(1) Any manufacturer, wholesaler, retailer, or other person who receives from a source outside of this state any substance specified in RCW 69.43.010(1) shall submit a report of such transaction to the ~~((state board of pharmacy))~~ pharmacy quality assurance commission under rules adopted by the ~~((board))~~ commission.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor.

Sec. 66. RCW 69.43.030 and 1988 c 147 s 3 are each amended to read as follows:

RCW 69.43.010 and 69.43.020 do not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a practitioner, as defined in chapter 69.41 RCW;

(2) Any practitioner who administers or furnishes a substance to his or her patients;

(3) Any manufacturer or wholesaler licensed by the ~~((state board of pharmacy))~~ pharmacy quality assurance commission who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy or practitioner;

(4) Any sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW 69.43.010(1), if such drug or cosmetic is lawfully sold, transferred, or furnished, over the counter without a prescription under chapter 69.04 or 69.41 RCW.

Sec. 67. RCW 69.43.035 and 2004 c 52 s 6 are each amended to read as follows:

(1) Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010(1) to any person in a suspicious transaction shall report the transaction in writing to the ~~((state board of pharmacy))~~ pharmacy quality assurance commission.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor.

(3) For the purposes of this section, "suspicious transaction" means a sale or transfer to which any of the following applies:

(a) The circumstances of the sale or transfer would lead a reasonable person to believe that the substance is likely to be used for the purpose of unlawfully manufacturing a controlled substance under chapter 69.50 RCW, based on such factors as the amount involved, the method of payment, the method of delivery, and any past dealings with any participant in the transaction. The ~~((state board of pharmacy))~~ pharmacy quality assurance commission shall adopt by rule criteria for determining whether a transaction is suspicious, taking into consideration the recommendations in appendix A of the report to the United States attorney general by the suspicious orders task force under the federal comprehensive methamphetamine control act of 1996.

(b) The transaction involves payment for any substance specified in RCW 69.43.010(1) in cash or money orders in a total amount of more than two hundred dollars.

(4) The (~~board of pharmacy~~) pharmacy quality assurance commission shall transmit to the department of revenue a copy of each report of a suspicious transaction that it receives under this section.

Sec. 68. RCW 69.43.040 and 2001 c 96 s 7 are each amended to read as follows:

(1) The department of health, in accordance with rules developed by the (~~state board of pharmacy~~) pharmacy quality assurance commission shall provide a common reporting form for the substances in RCW 69.43.010 that contains at least the following information:

- (a) Name of the substance;
 - (b) Quantity of the substance sold, transferred, or furnished;
 - (c) The date the substance was sold, transferred, or furnished;
 - (d) The name and address of the person buying or receiving the substance;
- and
- (e) The name and address of the manufacturer, wholesaler, retailer, or other person selling, transferring, or furnishing the substance.

(2) Monthly reports authorized under RCW 69.43.010(4) may be computer-generated in accordance with rules adopted by the department.

Sec. 69. RCW 69.43.043 and 2001 c 96 s 5 are each amended to read as follows:

(1) Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010(1) to any person shall maintain a record of each such sale or transfer. The records must contain:

- (a) The name of the substance;
 - (b) The quantity of the substance sold, transferred, or furnished;
 - (c) The date the substance was sold, transferred, or furnished;
 - (d) The name and address of the person buying or receiving the substance;
- and
- (e) The method of and amount of payment for the substance.

(2) The records of sales and transfers required by this section shall be available for inspection by the (~~state board of pharmacy~~) pharmacy quality assurance commission and its authorized representatives and shall be maintained for two years.

(3) A violation of this section is a gross misdemeanor.

Sec. 70. RCW 69.43.048 and 2001 c 96 s 6 are each amended to read as follows:

A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010(1) and who is subject to the reporting or recordkeeping requirements of this chapter may satisfy the requirements by submitting to the (~~state board of pharmacy~~) pharmacy quality assurance commission, and its authorized representatives:

(1) Computer readable data from which all of the required information may be readily derived; or

(2) Copies of reports that are filed under federal law that contain all of the information required by the particular reporting or recordkeeping requirement of this chapter which it is submitted to satisfy.

Sec. 71. RCW 69.43.050 and 1989 1st ex.s. c 9 s 442 are each amended to read as follows:

(1) The ~~((state board of pharmacy))~~ pharmacy quality assurance commission may adopt all rules necessary to carry out this chapter.

(2) Notwithstanding subsection (1) of this section, the department of health may adopt rules necessary for the administration of this chapter.

Sec. 72. RCW 69.43.060 and 1988 c 147 s 6 are each amended to read as follows:

(1) The theft or loss of any substance under RCW 69.43.010 discovered by any person regulated by this chapter shall be reported to the ~~((state board of pharmacy))~~ pharmacy quality assurance commission within seven days after such discovery.

(2) Any difference between the quantity of any substance under RCW 69.43.010 received and the quantity shipped shall be reported to the ~~((state board of pharmacy))~~ pharmacy quality assurance commission within seven days of the receipt of actual knowledge of the discrepancy. When applicable, any report made pursuant to this subsection shall also include the name of any common carrier or person who transported the substance and the date of shipment of the substance.

Sec. 73. RCW 69.43.090 and 2001 c 96 s 8 are each amended to read as follows:

(1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010 to any person or who receives from a source outside of the state any substance specified in RCW 69.43.010 shall obtain a permit for the conduct of that business from the ~~((state board of pharmacy))~~ pharmacy quality assurance commission. However, a permit shall not be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW 69.43.010(1), if such drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

(2) Applications for permits shall be filed with the department in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(3) The ~~((board))~~ commission may grant permits on forms prescribed by it. The permits shall be effective for not more than one year from the date of issuance.

(4) Each applicant shall pay at the time of filing an application for a permit a fee determined by the department.

(5) A permit granted under this chapter may be renewed on a date to be determined by the ~~((board))~~ commission, and annually thereafter, upon the filing

of a renewal application and the payment of a permit renewal fee determined by the department.

(6) Permit fees charged by the department shall not exceed the costs incurred by the department in administering this chapter.

(7) Selling, transferring, or otherwise furnishing, or receiving any substance specified in RCW 69.43.010 without a required permit, is a gross misdemeanor.

Sec. 74. RCW 69.43.100 and 1988 c 147 s 10 are each amended to read as follows:

The (~~board~~) pharmacy quality assurance commission shall have the power to refuse, suspend, or revoke the permit of any manufacturer or wholesaler upon proof that:

(1) The permit was procured through fraud, misrepresentation, or deceit;

(2) The permittee has violated or has permitted any employee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the (~~board of pharmacy~~) pharmacy quality assurance commission.

Sec. 75. RCW 69.43.105 and 2010 c 182 s 1 are each amended to read as follows:

(1) For purposes of this section, "traditional Chinese herbal practitioner" means a person who is certified as a diplomate in Chinese herbology from the national certification commission for acupuncture and oriental medicine or who has received a certificate in Chinese herbology from a school accredited by the accreditation council on acupuncture and oriental medicine.

(2) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may not knowingly sell, transfer, or otherwise furnish to any person a product at retail that he or she knows to contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, without first obtaining photo identification of the person that shows the date of birth of the person.

(3) A person buying or receiving a product at retail containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, from a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner must first produce photo identification of the person that shows the date of birth of the person.

(4) Any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall be kept (a) behind a counter where the public is not permitted, or (b) in a locked display case so that a customer wanting access must ask an employee of the merchant for assistance.

(5) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may sell any product containing any detectable quantity of

ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, to a person that is not at least eighteen years old.

(6) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW selling a nonprescription drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers shall require the purchaser to electronically or manually sign a record of the transaction. The record must include the name and address of the purchaser, the date and time of the sale, the name and initials of the shopkeeper, itinerant vendor, pharmacist, pharmacy technician, or employee conducting the transaction, the name of the product being sold, as well as the total quantity in grams, of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, being sold.

(7) The (~~board of pharmacy~~) pharmacy quality assurance commission, by rule, may exempt products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient from the requirements of this section if they are found not to be used in the illegal manufacture of methamphetamine or other controlled dangerous substances. A manufacturer of a drug product may apply for removal of the product from the requirements of this section if the product is determined by the (~~board~~) commission to have been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the (~~board~~) commission with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

- (a) Ease with which the product can be converted to methamphetamine;
- (b) Ease with which ephedrine, pseudoephedrine, or phenylpropanolamine is extracted from the substance and whether it forms an emulsion, salt, or other form;
- (c) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;
- (d) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and
- (e) Any pertinent data that can be used to determine the risk of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

(8) Nothing in this section applies:

- (a) To any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form;
- (b) To the sale of a product that may only be sold upon the presentation of a prescription;

(c) To the sale of a product by a traditional Chinese herbal practitioner to a patient; or

(d) When the details of the transaction are recorded in a pharmacy profile individually identified with the recipient and maintained by a licensed pharmacy.

(9)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may retaliate against any employee that has made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(b) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner is subject to prosecution under subsection (10) of this section if they made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(10) A violation of this section is a gross misdemeanor.

Sec. 76. RCW 69.43.110 and 2010 c 182 s 2 are each amended to read as follows:

(1) It is unlawful for a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011, knowingly to sell, transfer, or to otherwise furnish, in a single transaction a total of more than 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, in any twenty-four hour period or more than a total of nine grams per purchaser in any thirty-day period.

(2) It is unlawful for a person who is not a manufacturer, wholesaler, pharmacy, practitioner, shopkeeper, or itinerant vendor licensed by or registered with the department of health under chapter 18.64 RCW to purchase or acquire more than 3.6 grams in any twenty-four hour period, or more than a total of nine grams in any thirty-day period, of the substances specified in subsection (1) of this section.

(3) It is unlawful for any person to sell or distribute any of the substances specified in subsection (1) of this section unless the person is licensed by or registered with the department of health under chapter 18.64 RCW, or is a practitioner as defined in RCW 18.64.011.

(4)(a) Beginning July 1, 2011, or the date upon which the electronic sales tracking system established under RCW 69.43.165 is available, whichever is later, a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW shall, before completing a sale under this section, submit the required information to the electronic sales tracking system established under RCW 69.43.165, as long as such a system is available without cost to the pharmacy, shopkeeper, or itinerant vendor for accessing the system. The pharmacy, shopkeeper, or itinerant vendor may not complete the sale if the system generates a stop sale alert, except as permitted in RCW 69.43.165.

(b) If a pharmacy, shopkeeper, or itinerant vendor selling a nonprescription drug containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, he or she shall maintain a written log or an alternative electronic recordkeeping mechanism until such time as he or she is able to comply with the electronic sales tracking requirement.

(c) A pharmacy, shopkeeper, or itinerant vendor selling a nonprescription drug containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers may seek an exemption from submitting transactions to the electronic sales tracking system in writing to the ~~((board of pharmacy))~~ pharmacy quality assurance commission stating the reasons for the exemption. The ~~((board))~~ commission may grant an exemption for good cause shown, but in no event shall a granted exemption exceed one hundred eighty days. The ~~((board))~~ commission may grant multiple exemptions for any pharmacy, shopkeeper, or itinerant vendor if the good cause shown indicates significant hardship for compliance with this section. A pharmacy, shopkeeper, or itinerant vendor that receives an exemption shall maintain a logbook in hardcopy form and must require the purchaser to provide the information required under this section before the completion of any sale. The logbook shall be maintained as a record of each sale for inspection by any law enforcement officer or ~~((board))~~ commission inspector during normal business hours in accordance with any rules adopted pursuant to RCW 69.43.165. For purposes of this subsection (4)(c), "good cause" includes, but is not limited to, situations where the installation of the necessary equipment to access the system is unavailable or cost prohibitive to the pharmacy, shopkeeper, or itinerant vendor.

(d) A pharmacy, shopkeeper, or itinerant vendor may withdraw from participating in the electronic sales tracking system if the system is no longer being furnished without cost for accessing the system. A pharmacy, shopkeeper, or itinerant vendor who withdraws from the electronic sales tracking system is subject to the same requirements as a pharmacy, shopkeeper, or itinerant vendor who has been granted an exemption under (c) of this subsection.

(e) For the purposes of this subsection (4) and RCW 69.43.165:

(i) "Cost for accessing the system" means costs relating to:

(A) Access to the web-based electronic sales tracking software, including inputting and retrieving data;

(B) The web-based software known as software as a service;

(C) Training; and

(D) Technical support to integrate to point of sale vendors, if necessary.

(ii) "Cost for accessing the system" does not include:

(A) Costs relating to required internet access;

(B) Optional hardware that a pharmacy may choose to purchase for workflow purposes; or

(C) Other equipment.

(5) A violation of this section is a gross misdemeanor.

Sec. 77. RCW 69.43.130 and 2004 c 52 s 7 are each amended to read as follows:

RCW 69.43.110 and 69.43.120 do not apply to:

(1) Pediatric products primarily intended for administration to children under twelve years of age, according to label instructions, either: (a) In solid dosage form whose individual dosage units do not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine; or (b) in liquid form whose recommended dosage, according to label instructions, does not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of liquid product;

(2) Pediatric liquid products primarily intended for administration to children under two years of age for which the recommended dosage does not exceed two milliliters and the total package content does not exceed one fluid ounce;

(3) Products that the ~~((state board of pharmacy))~~ pharmacy quality assurance commission, upon application of a manufacturer, exempts by rule from RCW 69.43.110 and 69.43.120 because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors; or

(4) Products, as packaged, that the ~~((board of pharmacy))~~ pharmacy quality assurance commission, upon application of a manufacturer, exempts from RCW 69.43.110(1)~~((b))~~ and 69.43.120 because:

(a) The product meets the federal definition of an ordinary over-the-counter pseudoephedrine product as defined in 21 U.S.C. 802;

(b) The product is a salt, isomer, or salts of isomers of pseudoephedrine and, as packaged, has a total weight of more than three grams but the net weight of the pseudoephedrine base is equal to or less than three grams; and

(c) The ~~((board of pharmacy))~~ pharmacy quality assurance commission determines that the value to the people of the state of having the product, as packaged, available for sale to consumers outweighs the danger, and the product, as packaged, has not been used in the illegal manufacture of methamphetamine.

Sec. 78. RCW 69.43.140 and 2001 c 96 s 12 are each amended to read as follows:

(1) In addition to the other penalties provided for in this chapter or in chapter 18.64 RCW, the ~~((state board of pharmacy))~~ pharmacy quality assurance commission may impose a civil penalty, not to exceed ten thousand dollars for each violation, on any licensee or registrant who has failed to comply with this chapter or the rules adopted under this chapter. In the case of a continuing violation, every day the violation continues shall be considered a separate violation.

(2) The ~~((state board of pharmacy))~~ pharmacy quality assurance commission may waive the suspension or revocation of a license or registration issued under chapter 18.64 RCW, or waive any civil penalty under this chapter, if the licensee or registrant establishes that he or she acted in good faith to prevent violations of this chapter, and the violation occurred despite the licensee's or registrant's exercise of due diligence. In making such a determination, the ~~((state board of pharmacy))~~ pharmacy quality assurance commission may consider evidence that an employer trained employees on how to sell, transfer, or otherwise furnish substances specified in RCW 69.43.010(1) in accordance with applicable laws.

Sec. 79. RCW 69.43.165 and 2010 c 182 s 3 are each amended to read as follows:

(1) The (~~board of pharmacy~~) pharmacy quality assurance commission shall implement a real-time electronic sales tracking system to monitor the nonprescription sale of products in this state containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, provided that the system is available to the state without cost for accessing the system to the state or retailers. The (~~board~~) commission is authorized to enter into a public-private partnership, through a memorandum of understanding or similar arrangement, to make the system available.

(2) The records submitted to the tracking system are for the confidential use of the pharmacy, shopkeeper, or itinerant vendor who submitted them, except that:

(a) The records must be produced in court when lawfully required;

(b) The records must be open for inspection by the (~~board of pharmacy~~) pharmacy quality assurance commission; and

(c) The records must be available to any general or limited authority Washington peace officer to enforce the provisions of this chapter or to federal law enforcement officers in accordance with rules adopted by the (~~board of pharmacy~~) pharmacy quality assurance commission regarding the privacy of the purchaser of products covered by chapter 182, Laws of 2010 and law enforcement access to the records submitted to the tracking system as provided in this section consistent with the federal combat meth act.

(3) The electronic sales tracking system shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits in RCW 69.43.110 (1) and (2). The system shall contain an override function for use by a dispenser of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, who has a reasonable fear of imminent bodily harm. Each instance in which the override function is utilized shall be logged by the system.

(4) The (~~board of pharmacy~~) pharmacy quality assurance commission shall have the authority to adopt rules necessary to implement and enforce the provisions of this section. The (~~board of pharmacy~~) pharmacy quality assurance commission shall adopt rules regarding the privacy of the purchaser of products covered by chapter 182, Laws of 2010, and any public or law enforcement access to the records submitted to the tracking system as provided in subsection (2)(c) of this section consistent with the federal combat meth act.

(5) The (~~board of pharmacy~~) pharmacy quality assurance commission may not raise licensing or registration fees to fund the rule making or implementation of this section.

Sec. 80. RCW 69.43.180 and 2005 c 388 s 3 are each amended to read as follows:

(1) The Washington association of sheriffs and police chiefs or the Washington state patrol may petition the (~~state board of pharmacy~~) pharmacy quality assurance commission to apply the log requirements in RCW 69.43.170 to one or more products that contain ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form. The petition shall establish that:

(a) Ephedrine, pseudoephedrine, or phenylpropanolamine can be effectively extracted from the product and converted into methamphetamine or another controlled dangerous substance; and

(b) Law enforcement, the Washington state patrol, or the department of ecology are finding substantial evidence that the product is being used for the illegal manufacture of methamphetamine or another controlled dangerous substance.

(2) The (~~board of pharmacy~~) pharmacy quality assurance commission shall adopt rules when a petition establishes that requiring the application of the log requirements in RCW 69.43.170 to the sale of the product at retail is warranted based upon the effectiveness and extent of use of the product for the illegal manufacture of methamphetamine or other controlled dangerous substances and the extent of the burden of any restrictions upon consumers. The (~~board of pharmacy~~) pharmacy quality assurance commission may adopt emergency rules to apply the log requirements to the sale of a product when the petition establishes that the immediate restriction of the product is necessary in order to protect public health and safety.

Sec. 81. RCW 69.45.010 and 1994 sp.s. c 9 s 738 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) (~~"Board" means the board of pharmacy.~~) "Commission" means the pharmacy quality assurance commission.

(2) "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.

(3) "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.

(4) "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.

(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) "Legend drug" means any drug that is required by state law or by regulations of the (~~board~~) commission to be dispensed on prescription only or is restricted to use by practitioners only.

(8) "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.

(9) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.

(10) "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 medical quality assurance commission.

(11) "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.

(12) "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.

(13) "Department" means the department of health.

(14) "Secretary" means the secretary of health or the secretary's designee.

Sec. 82. RCW 69.45.020 and 1989 1st ex.s. c 9 s 445 are each amended to read as follows:

A manufacturer that intends to distribute drug samples in this state shall register annually with the department, providing the name and address of the manufacturer, and shall:

(1) Provide a twenty-four hour telephone number and the name of the individual(s) who shall respond to reasonable official inquiries from the department, as directed by the ((board)) commission, based on reasonable cause, regarding required records, reports, or requests for information pursuant to a specific investigation of a possible violation. Each official request by the department and each response by a manufacturer shall be limited to the information specifically relevant to the particular official investigation. Requests for the address of sites in this state at which drug samples are stored by the manufacturer's representative and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples shall be responded to as soon as possible but not later than the close of business on the next business day following the request; or

(2) If a twenty-four hour telephone number is not available, provide the addresses of sites in this state at which drug samples are stored by the manufacturer's representative, and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples. The manufacturer shall annually submit a complete updated list of the sites and individuals to the department.

Sec. 83. RCW 69.45.060 and 1987 c 411 s 6 are each amended to read as follows:

Surplus, outdated, or damaged drug samples shall be disposed of as follows:

(1) Returned to the manufacturer; or

(2) Witnessed destruction by such means as to assure that the drug cannot be retrieved. However, controlled substances shall be returned to the manufacturer or disposed of in accordance with rules adopted by the ((board)) commission: PROVIDED, That the ((board)) commission shall adopt by rule the regulations of the federal drug enforcement administration or its lawful successor unless, stating reasonable grounds, it adopts rules consistent with such regulations.

Sec. 84. RCW 69.45.080 and 1987 c 411 s 8 are each amended to read as follows:

(1) The manufacturer is responsible for the actions and conduct of its representatives with regard to drug samples.

(2) The ((board)) commission may hold a public hearing to examine a possible violation and may require a designated representative of the manufacturer to attend.

(3) If a manufacturer fails to comply with this chapter following notification by the ((board)) commission, the ((board)) commission may impose a civil penalty of up to five thousand dollars. The ((board)) commission shall take no action to impose any civil penalty except pursuant to a hearing held in accordance with chapter 34.05 RCW.

(4) Specific drug samples which are distributed in this state in violation of this chapter, following notification by the ((board)) commission, shall be subject to seizure following the procedures set out in RCW 69.41.060.

Sec. 85. RCW 69.45.090 and 2005 c 274 s 330 are each amended to read as follows:

All records, reports, and information obtained by the ((board)) commission from or on behalf of a manufacturer or manufacturer's representative under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. This section does not apply to public disclosure of the identity of persons found by the ((board)) commission to have violated state or federal law, rules, or regulations. This section is not intended to restrict the investigations and proceedings of the ((board)) commission so long as the ((board)) commission maintains the confidentiality required by this section.

NEW SECTION. **Sec. 86.** A new section is added to chapter 69.50 RCW to read as follows:

"Commission" means the pharmacy quality assurance commission.

Sec. 87. RCW 69.50.201 and 1998 c 245 s 108 are each amended to read as follows:

(a) The ((state board of pharmacy)) commission shall enforce this chapter and may add substances to or delete or reschedule substances listed in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, or 69.50.212 pursuant to the procedures of chapter 34.05 RCW.

(1) In making a determination regarding a substance, the ((board)) commission shall consider the following:

(i) the actual or relative potential for abuse;

(ii) the scientific evidence of its pharmacological effect, if known;

(iii) the state of current scientific knowledge regarding the substance;

(iv) the history and current pattern of abuse;

- (v) the scope, duration, and significance of abuse;
- (vi) the risk to the public health;
- (vii) the potential of the substance to produce psychic or physiological dependence liability; and
- (viii) whether the substance is an immediate precursor of a controlled substance.

(2) The ~~((board))~~ commission may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.

(b) After considering the factors enumerated in subsection (a) of this section, the ~~((board))~~ commission shall make findings with respect thereto and adopt and cause to be published a rule controlling the substance upon finding the substance has a potential for abuse.

(c) The ~~((board))~~ commission, without regard to the findings required by subsection (a) of this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211 or the procedures prescribed by subsections (a) and (b) of this section, may place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule. If the ~~((board))~~ commission designates a substance as an immediate precursor, substances that are precursors of the controlled precursor are not subject to control solely because they are precursors of the controlled precursor.

(d) If a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the ~~((board))~~ commission shall similarly control the substance under this chapter after the expiration of thirty days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under Section 508 of the federal Dangerous Drug Diversion Control Act of 1984, 21 U.S.C. Sec. 811(h), unless within that thirty-day period, the ~~((board))~~ commission or an interested party objects to inclusion, rescheduling, temporary scheduling, or deletion. If no objection is made, the ~~((board))~~ commission shall adopt and cause to be published, without the necessity of making determinations or findings as required by subsection (a) of this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211, a final rule, for which notice of proposed rule making is omitted, designating, rescheduling, temporarily scheduling, or deleting the substance. If an objection is made, the ~~((board))~~ commission shall make a determination with respect to the designation, rescheduling, or deletion of the substance as provided by subsection (a) of this section. Upon receipt of an objection to inclusion, rescheduling, or deletion under this chapter by the ~~((board))~~ commission, the ~~((board))~~ commission shall publish notice of the receipt of the objection, and control under this chapter is stayed until the ~~((board))~~ commission adopts a rule as provided by subsection (a) of this section.

(e) The ~~((board))~~ commission, by rule and without regard to the requirements of subsection (a) of this section, may schedule a substance in Schedule I regardless of whether the substance is substantially similar to a controlled substance in Schedule I or II if the ~~((board))~~ commission finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to the public safety and the substance is not included in any

other schedule or no exemption or approval is in effect for the substance under Section 505 of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 355. Upon receipt of notice under RCW 69.50.214, the (~~(board)~~) commission shall initiate scheduling of the controlled substance analog on an emergency basis pursuant to this subsection. The scheduling of a substance under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the (~~(board)~~) commission shall consider whether the substance has been scheduled on a temporary basis under federal law or factors set forth in subsection (a)(1)(iv), (v), and (vi) of this section, and may also consider clandestine importation, manufacture, or distribution, and, if available, information concerning the other factors set forth in subsection (a)(1) of this section. A rule may not be adopted under this subsection until the (~~(board)~~) commission initiates a rule-making proceeding under subsection (a) of this section with respect to the substance. A rule adopted under this subsection must be vacated upon the conclusion of the rule-making proceeding initiated under subsection (a) of this section with respect to the substance.

(~~(e)-(f)~~) (f) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Titles 66 and 26 RCW.

Sec. 88. RCW 69.50.203 and 1993 c 187 s 3 are each amended to read as follows:

(a) The (~~(state board of pharmacy)~~) commission shall place a substance in Schedule I upon finding that the substance:

- (1) has high potential for abuse;
- (2) has no currently accepted medical use in treatment in the United States;

and

- (3) lacks accepted safety for use in treatment under medical supervision.

(b) The (~~(board)~~) commission may place a substance in Schedule I without making the findings required by subsection (a) of this section if the substance is controlled under Schedule I of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 89. RCW 69.50.205 and 1993 c 187 s 5 are each amended to read as follows:

(a) The (~~(state board of pharmacy)~~) commission shall place a substance in Schedule II upon finding that:

- (1) the substance has high potential for abuse;
- (2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (3) the abuse of the substance may lead to severe psychological or physical dependence.

(b) The (~~(state board of pharmacy)~~) commission may place a substance in Schedule II without making the findings required by subsection (a) of this section if the substance is controlled under Schedule II of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 90. RCW 69.50.207 and 1993 c 187 s 7 are each amended to read as follows:

(a) The (~~state board of pharmacy~~) commission shall place a substance in Schedule III upon finding that:

(1) the substance has a potential for abuse less than the substances included in Schedules I and II;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(b) The (~~state board of pharmacy~~) commission may place a substance in Schedule III without making the findings required by subsection (a) of this section if the substance is controlled under Schedule III of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 91. RCW 69.50.208 and 2010 c 177 s 4 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule III:

(a) Stimulants. Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Any compound, mixture, or preparation in dosage unit form containing any stimulant substance included in Schedule II and which was listed as an excepted compound on August 25, 1971, pursuant to the federal Controlled Substances Act, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except for containing a lesser quantity of controlled substances;

(2) Benzphetamine;

(3) Chlorphentermine;

(4) Clortermine;

(5) Phendimetrazine.

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) Any suppository dosage form containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

(4) Chlorhexadol;

(5) Embutramide;

(6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;

(7) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: (<plus-minus>)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(8) Lysergic acid;

(9) Lysergic acid amide;

(10) Methyprylon;

(11) Sulfondiethylmethane;

(12) Sulfonethylmethane;

(13) Sulfonmethane;

(14) Tiletamine and zolazepam or any of their salts—some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl) cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one flupyzapone.

(c) Nalorphine.

(d) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts: Buprenorphine.

(f) Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product. Some other names for dronabinol: [6a R-trans]-6a,7,8, 10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-i-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(g) Anabolic steroids. The term "anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, that promotes muscle growth and includes:

- (1) 3 β ,17-dihydroxy-5 α -androstane;
- (2) 3 α ,17 β -dihydroxy-5 α -androstane;
- (3) 5 α -androstan-3,17-dione;
- (4) 1-androstenediol (3 β ,17 β -dihydroxy-5 α -androst-1-ene);
- (5) 1-androstenediol (3 α ,17 β -dihydroxy-5 α -androst-1-ene);
- (6) 4-androstenediol (3 β ,17 β -dihydroxy-androst-4-ene);
- (7) 5-androstenediol (3 β ,17 β -dihydroxy-androst-5-ene);
- (8) 1-androstenedione ([5 α]-androst-1-en-3,17-dione);
- (9) 4-androstenedione (androst-4-en-3,17-dione);
- (10) 5-androstenedione (androst-5-en-3,17-dione);
- (11) Bolasterone (7 α ,17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
- (12) Boldenone (17 β -hydroxyandrost-1,4,-diene-3-one);
- (13) Calusterone (7 β ,17 α -dimethyl-17 β -hydroxyandrost-4-en-3-one);
- (14) Clostebol (4-chloro-17 β -hydroxyandrost-4-en-3-one);
- (15) Dehydrochloromethyltestosterone (4-chloro-17 β -hydroxy-17 α -methyl-androst-1,4-dien-3-one);
- (16) Δ 1-dihydrotestosterone (a.k.a. '1-testosterone') (17 β -hydroxy-5 α -androst-1-en-3-one);
- (17) 4-dihydrotestosterone (17 β -hydroxy-androstan-3-one);
- (18) Drostanolone (17 β -hydroxy-2 α -methyl-5 α -androstan-3-one);
- (19) Ethylestrenol (17 α -ethyl-17 β -hydroxyestr-4-ene);
- (20) Fluoxymesterone (9-fluoro-17 α -methyl-11 β ,17 β -dihydroxyandrost-4-en-3-one);
- (21) Formebolone (2-formyl-17 α -methyl-11 α ,17 β -dihydroxyandrost-1,4-dien-3-one);
- (22) Furazabol (17 α -methyl-17 β -hydroxyandrostano[2,3-c]-furazan);
- (23) 13 β -ethyl-17 β -hydroxygon-4-en-3-one;
- (24) 4-hydroxytestosterone (4,17 β -dihydroxy-androst-4-en-3-one);
- (25) 4-hydroxy-19-nortestosterone (4,17 β -dihydroxy-estr-4-en-3-one);
- (26) Mestanolone (17 α -methyl-17 β -hydroxy-5-androstan-3-one);
- (27) Mesterolone (1 α methyl-17 β -hydroxy-[5 α]-androstan-3-one);
- (28) Methandienone (17 α -methyl-17 β -hydroxyandrost-1,4-dien-3-one);
- (29) Methandriol (17 α -methyl-3 β ,17 β -dihydroxyandrost-5-ene);
- (30) Methenolone (1-methyl-17 β -hydroxy-5 α -androst-1-en-3-one);
- (31) 17 α -methyl-3 β ,17 β -dihydroxy-5 α -androstane;

- (32) 17 α -methyl-3 α ,17 β -dihydroxy-5 α -androstane;
- (33) 17 α -methyl-3 β ,17 β -dihydroxyandrost-4-ene;
- (34) 17 α -methyl-4-hydroxynandrolone (17 α -methyl-4-hydroxy-17 β -hydroxyestr-4-en-3-one);
- (35) Methyldienolone (17 α -methyl-17 β -hydroxyestra-4,9(10)-dien-3-one);
- (36) Methyltrienolone (17 α -methyl-17 β -hydroxyestra-4,9-11-trien-3-one);
- (37) Methyltestosterone (17 α -methyl-17 β -hydroxyandrost-4-en-3-one);
- (38) Mibolerone (7 α ,17 α -dimethyl-17 β -hydroxyestr-4-en-3-one);
- (39) 17 α -methyl- Δ 1-dihydrotestosterone (17 β -hydroxy-17 α -methyl-5 α -androst-1-en-3-one) (also known as '17- α -methyl-1-testosterone');
- (40) Nandrolone (17 β -hydroxyestr-4-en-3-one);
- (41) 19-nor-4-androstenediol (3 β , 17 β -dihydroxyestr-4-ene);
- (42) 19-nor-4-androstenediol (3 α , 17 β -dihydroxyestr-4-ene);
- (43) 19-nor-5-androstenediol (3 β , 17 β -dihydroxyestr-5-ene);
- (44) 19-nor-5-androstenediol (3 α , 17 β -dihydroxyestr-5-ene);
- (45) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- (46) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- (47) Norbolethone (13 β , 17 α -diethyl-17 β -hydroxygon-4-en-3-one);
- (48) Norclostebol (4-chloro-17 β -hydroxyestr-4-en-3-one);
- (49) Norethandrolone (17 α -ethyl-17 β -hydroxyestr-4-en-3-one);
- (50) Normethandrolone (17 α -methyl-17 β -hydroxyestr-4-en-3-one);
- (51) Oxandrolone (17 α -methyl-17 β -hydroxy-2-oxa-[5 α]-androst-3-one);
- (52) Oxymesterone (17 α -methyl-4,17 β -dihydroxyandrost-4-en-3-one);
- (53) Oxymetholone (17 α -methyl-2-hydroxymethylene-17 β -hydroxy-[5 α]-androst-3-one);
- (54) Stanozolol (17 α -methyl-17 β -hydroxy-[5 α]-androst-2-eno[3,2-c]-pyrazole);
- (55) Stenbolone (17 β -hydroxy-2-methyl-[5 α]-androst-1-en-3-one);
- (56) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- (57) Testosterone (17 β -hydroxyandrost-4-en-3-one);
- (58) Tetrahydrogestrinone (13 β , 17 α -diethyl-17 β -hydroxygon-4,9,11-trien-3-one);
- (59) Trenbolone (17 β -hydroxyestr-4,9,11-trien-3-one); and
- (60) Any salt, ester, or ether of a drug or substance described in this section.

Such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the secretary of the department of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this section.

The ((state board of pharmacy)) commission may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (a)(1) and (2) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for

abuse of the substances having a stimulant or depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 92. RCW 69.50.209 and 1993 c 187 s 9 are each amended to read as follows:

(a) The (~~state board of pharmacy~~) commission shall place a substance in Schedule IV upon finding that:

(1) the substance has a low potential for abuse relative to substances in Schedule III;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in Schedule III.

(b) The (~~state board of pharmacy~~) commission may place a substance in Schedule IV without making the findings required by subsection (a) of this section if the substance is controlled under Schedule IV of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 93. RCW 69.50.210 and 2010 c 177 s 5 are each amended to read as follows:

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule IV:

(a) Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;

(2) Barbital;

(3) Bromazepam;

(4) Camazepam;

(5) Carisoprodol;

(6) Chloral betaine;

(7) Chloral hydrate;

(8) Chlordiazepoxide;

(9) Clobazam;

(10) Clonazepam;

(11) Clorazepate;

- (12) Clotiazepam;
- (13) Cloxazolam;
- (14) Delorazepam;
- (15) Diazepam;
- (16) Dichloralphenazone;
- (17) Estazolam;
- (18) Ethchlorvynol;
- (19) Ethinamate;
- (20) Ethyl loflazepate;
- (21) Fludiazepam;
- (22) Flunitrazepam;
- (23) Flurazepam;
- (24) Halazepam;
- (25) Haloxazolam;
- (26) Ketazolam;
- (27) Loprazolam;
- (28) Lorazepam;
- (29) Lormetazepam;
- (30) Mebutamate;
- (31) Medazepam;
- (32) Meprobamate;
- (33) Methohexital;
- (34) Methylphenobarbital (mephobarbital);
- (35) Midazolam;
- (36) Nimetazepam;
- (37) Nitrazepam;
- (38) Nordiazepam;
- (39) Oxazepam;
- (40) Oxazolam;
- (41) Paraldehyde;
- (42) Petrichloral;
- (43) Phenobarbital;
- (44) Pinazepam;
- (45) Prazepam;
- (46) Quazepam;
- (47) Temazepam;
- (48) Tetrazepam;
- (49) Triazolam;
- (50) Zaleplon;
- (51) Zolpidem; and
- (52) Zopiclone.

(c) Fenfluramine. Any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

- (1) Cathine((+)norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Mazindol;
- (6) Mefenorex;
- (7) Modafinil;
- (8) Pemoline (including organometallic complexes and chelates thereof);
- (9) Phentermine;
- (10) Pipradrol;
- (11) Sibutramine;
- (12) SPA ((-)-1-dimethylamino-1, 2-dephenylethane).

(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts:

- (1) Pentazocine;
- (2) Butorphanol, including its optical isomers.

The (~~state board of pharmacy~~) commission may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 94. RCW 69.50.211 and 1993 c 187 s 11 are each amended to read as follows:

(a) The (~~state board of pharmacy~~) commission shall place a substance in Schedule V upon finding that:

- (1) the substance has low potential for abuse relative to the controlled substances included in Schedule IV;
- (2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in Schedule IV.

(b) The (~~state board of pharmacy~~) commission may place a substance in Schedule V without being required to make the findings required by subsection (a) of this section if the substance is controlled under Schedule V of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

Sec. 95. RCW 69.50.213 and 1993 c 187 s 13 are each amended to read as follows:

The (~~state board of pharmacy~~) commission shall publish updated schedules annually. Failure to publish updated schedules is not a defense in any administrative or judicial proceeding under this chapter.

Sec. 96. RCW 69.50.214 and 1993 c 187 s 14 are each amended to read as follows:

A controlled substance analog, to the extent intended for human consumption, shall be treated, for the purposes of this chapter, as a substance included in Schedule I. Within thirty days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the prosecuting attorney shall notify the (~~(state board of pharmacy)~~) commission of information relevant to emergency scheduling as provided for in RCW 69.50.201(~~(f)~~) (e). After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may continue or take place.

Sec. 97. RCW 69.50.301 and 1993 c 187 s 15 are each amended to read as follows:

The (~~(board)~~) commission may adopt rules and the department may charge reasonable fees, relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

Sec. 98. RCW 69.50.302 and 2011 c 336 s 839 are each amended to read as follows:

(a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually a registration issued by the department in accordance with the (~~(board's)~~) commission's rules.

(b) A person registered by the department under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the registration and in conformity with this Article.

(c) The following persons need not register and may lawfully possess controlled substances under this chapter:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of business or employment. This exemption shall not include any agent or employee distributing sample controlled substances to practitioners without an order;

(2) A common or contract carrier or warehouse operator, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a substance included in Schedule V.

(d) The (~~(board)~~) commission may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers upon finding it consistent with the public health and safety. Personal practitioners licensed or registered in the state of Washington under the respective professional licensing acts shall not be required to be registered under this chapter unless the specific exemption is denied pursuant to RCW 69.50.305 for violation of any provisions of this chapter.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The department may inspect the establishment of a registrant or applicant for registration in accordance with rules adopted by the ((board)) commission.

Sec. 99. RCW 69.50.303 and 1993 c 187 s 17 are each amended to read as follows:

(a) The department shall register an applicant to manufacture or distribute controlled substances included in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless the ((board)) commission determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the ((board)) commission shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(2) compliance with applicable state and local law;

(3) promotion of technical advances in the art of manufacturing controlled substances and the development of new substances;

(4) any convictions of the applicant under any laws of another country or federal or state laws relating to any controlled substance;

(5) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(6) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

(7) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(8) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this section does not entitle a registrant to manufacture or distribute controlled substances included in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered, or exempted under RCW 69.50.302(d), to dispense any controlled substances or to conduct research with controlled substances included in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The ((board)) commission need not require separate registration under this Article for practitioners engaging in research with nonnarcotic substances included in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with substances included in Schedule I may conduct research with substances included in Schedule I within this state upon furnishing the ((board)) commission evidence of that federal registration.

(d) A manufacturer or distributor registered under the federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., may submit a copy of the federal application as an application for registration as a manufacturer or distributor

under this section. The (~~board~~) commission may require a manufacturer or distributor to submit information in addition to the application for registration under the federal act.

Sec. 100. RCW 69.50.304 and 1993 c 187 s 18 are each amended to read as follows:

(a) A registration, or exemption from registration, under RCW 69.50.303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the (~~state board of pharmacy~~) commission upon finding that the registrant has:

(1) furnished false or fraudulent material information in any application filed under this chapter;

(2) been convicted of a felony under any state or federal law relating to any controlled substance;

(3) had the registrant's federal registration suspended or revoked and is no longer authorized by federal law to manufacture, distribute, or dispense controlled substances; or

(4) committed acts that would render registration under RCW 69.50.303 inconsistent with the public interest as determined under that section.

(b) The (~~board~~) commission may limit revocation or suspension of a registration to the particular controlled substance or schedule of controlled substances, with respect to which grounds for revocation or suspension exist.

(c) If the (~~board~~) commission suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The department may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by the registration. The controlled substance must be held for the benefit of the registrant or the registrant's successor in interest. The department shall notify a registrant, or the registrant's successor in interest, who has any controlled substance seized or placed under seal, of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The department may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of one hundred eighty days after the controlled substance was seized or placed under seal. The costs incurred by the department in seizing, placing under seal, maintaining custody, and disposing of any controlled substance under this subsection may be recovered from the registrant, any proceeds obtained from the disposition of the controlled substance, or from both. Any balance remaining after the costs have been recovered from the proceeds of any disposition must be delivered to the registrant or the registrant's successor in interest.

(e) The department shall promptly notify the drug enforcement administration of all orders restricting, suspending, or revoking registration and all forfeitures of controlled substances.

Sec. 101. RCW 69.50.305 and 1971 ex.s. c 308 s 69.50.305 are each amended to read as follows:

(a) Any registration, or exemption from registration, issued pursuant to the provisions of this chapter shall not be denied, suspended, or revoked unless the ~~((board))~~ commission denies, suspends, or revokes such registration, or exemption from registration, by proceedings consistent with the administrative procedure act, chapter 34.05 RCW.

(b) The ~~((board))~~ commission may suspend any registration simultaneously with the institution of proceedings under RCW 69.50.304, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the ~~((board))~~ commission or dissolved by a court of competent jurisdiction.

Sec. 102. RCW 69.50.306 and 1971 ex.s. c 308 s 69.50.306 are each amended to read as follows:

Persons registered, or exempted from registration under RCW 69.50.302(d), to manufacture, distribute, dispense, or administer controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules the ~~((state board of pharmacy))~~ commission issues.

Sec. 103. RCW 69.50.308 and 2012 c 10 s 46 are each amended to read as follows:

(a) A controlled substance may be dispensed only as provided in this section.

(b) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule II may not be dispensed without the written prescription of a practitioner.

(1) Schedule II narcotic substances may be dispensed by a pharmacy pursuant to a facsimile prescription under the following circumstances:

(i) The facsimile prescription is transmitted by a practitioner to the pharmacy; and

(ii) The facsimile prescription is for a patient in a long-term care facility. "Long-term care facility" means nursing homes licensed under chapter 18.51 RCW, assisted living facilities licensed under chapter 18.20 RCW, and adult family homes licensed under chapter 70.128 RCW; or

(iii) The facsimile prescription is for a patient of a hospice program certified or paid for by medicare under Title XVIII; or

(iv) The facsimile prescription is for a patient of a hospice program licensed by the state; and

(v) The practitioner or the practitioner's agent notes on the facsimile prescription that the patient is a long-term care or hospice patient.

(2) Injectable Schedule II narcotic substances that are to be compounded for patient use may be dispensed by a pharmacy pursuant to a facsimile prescription if the facsimile prescription is transmitted by a practitioner to the pharmacy.

(3) Under (1) and (2) of this subsection the facsimile prescription shall serve as the original prescription and shall be maintained as other Schedule II narcotic substances prescriptions.

(c) In emergency situations, as defined by rule of the (~~state board of pharmacy~~) commission, a substance included in Schedule II may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of RCW 69.50.306. A prescription for a substance included in Schedule II may not be refilled.

(d) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule III or IV, which is a prescription drug as determined under RCW 69.04.560, may not be dispensed without a written or oral prescription of a practitioner. Any oral prescription must be promptly reduced to writing. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times, unless renewed by the practitioner.

(e) A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that the person is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.

(f) A substance included in Schedule V must be distributed or dispensed only for a medical purpose.

(g) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession. Medical treatment includes dispensing or administering a narcotic drug for pain, including intractable pain.

(h) No administrative sanction, or civil or criminal liability, authorized or created by this chapter may be imposed on a pharmacist for action taken in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

(i) An individual practitioner may not dispense a substance included in Schedule II, III, or IV for that individual practitioner's personal use.

Sec. 104. RCW 69.50.310 and 1989 1st ex.s. c 9 s 435 are each amended to read as follows:

On and after September 21, 1977, a humane society and animal control agency may apply to the department for registration pursuant to the applicable provisions of this chapter for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any agency so registered shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering this drug.

The department may issue a limited registration to carry out the provisions of this section. The ~~((board))~~ commission shall promulgate such rules as it deems necessary to insure strict compliance with the provisions of this section. The ~~((board))~~ commission may suspend or revoke registration upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge as herein provided. This authority is granted in addition to any other power to suspend or revoke registration as provided by law.

Sec. 105. RCW 69.50.312 and 1998 c 222 s 4 are each amended to read as follows:

(1) Information concerning an original prescription or information concerning a prescription refill for a controlled substance may be electronically communicated to a pharmacy of the patient's choice 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 for a legend drug;

(b) The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the ~~((board))~~ commission. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The ~~((board))~~ commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the ~~((board))~~ commission;

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the ~~((board))~~ commission.

(2) The ~~((board))~~ commission may adopt rules implementing this section.

Sec. 106. RCW 69.50.320 and 2003 c 175 s 2 are each amended to read as follows:

The department of fish and wildlife may apply to the department of health for registration pursuant to the applicable provisions of this chapter to purchase, possess, and administer controlled substances for use in chemical capture programs. The department of fish and wildlife must not permit a person to administer controlled substances unless the person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

The department of health may issue a limited registration to carry out the provisions of this section. The ~~((board))~~ commission may adopt rules to ensure strict compliance with the provisions of this section. The ~~((board))~~ commission, in consultation with the department of fish and wildlife, must by rule add or remove additional controlled substances for use in chemical capture programs. The ~~((board))~~ commission shall suspend or revoke registration upon determination that the person administering controlled substances has not demonstrated adequate knowledge as required by this section. This authority is granted in addition to any other power to suspend or revoke registration as provided by law.

Sec. 107. RCW 69.50.402 and 2010 c 177 s 7 are each amended to read as follows:

(1) It is unlawful for any person:

(a) Who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(b) Who is a registrant, to manufacture a controlled substance not authorized by his or her registration, or to distribute or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized person;

(c) Who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) Any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a schedule II controlled substance by the ~~((board of pharmacy))~~ commission pursuant to chapter 34.05 RCW; or

(ii) Any nonnarcotic stimulant classified as a schedule II controlled substance and designated as a nonnarcotic stimulant by the ~~((board of pharmacy))~~ commission pursuant to chapter 34.05 RCW;

except for the treatment of narcolepsy or for the treatment of hyperkinesia, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the treatment of multiple sclerosis, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the ~~((state board of pharmacy))~~ commission before the investigation has been begun: PROVIDED, That the ~~((board of pharmacy))~~ commission, in consultation with the medical quality assurance commission and the osteopathic disciplinary board, may establish by rule, pursuant to chapter 34.05 RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners: AND PROVIDED, FURTHER, That investigations by the ~~((board of pharmacy))~~ commission of

abuse of prescriptive authority by physicians, licensed pursuant to chapter 18.71 RCW, pursuant to subsection (1)(c) of this section shall be done in consultation with the medical quality assurance commission;

(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this chapter;

(e) To refuse an entry into any premises for any inspection authorized by this chapter; or

(f) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both.

Sec. 108. RCW 69.50.501 and 1971 ex.s. c 308 s 69.50.501 are each amended to read as follows:

The (~~state board of pharmacy~~) commission may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(a) places where persons registered or exempted from registration requirements under this chapter are required to keep records; and

(b) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When authorized by an administrative inspection warrant issued pursuant to RCW 69.50.502 an officer or employee designated by the (~~board~~) commission, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the (~~board~~) commission may:

(a) inspect and copy records required by this chapter to be kept;

(b) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection (5) of this section, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and

(c) inventory any stock of any controlled substance therein and obtain samples thereof;

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with chapter 34.05 RCW, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) if the owner, operator, or agent in charge of the controlled premises consents;

(b) in situations presenting imminent danger to health or safety;

(c) in situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or,

(e) in all other situations in which a warrant is not constitutionally required;

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

Sec. 109. RCW 69.50.504 and 1971 ex.s. c 308 s 69.50.504 are each amended to read as follows:

The (~~state board of pharmacy~~) commission shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances.

Sec. 110. RCW 69.50.507 and 2012 c 117 s 371 are each amended to read as follows:

All final determinations, findings, and conclusions of the (~~state board of pharmacy~~) commission under this chapter are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the superior court wherein he or she resides or in the superior court of Thurston county, such review to be in conformity with the administrative procedure act, chapter 34.05 RCW.

Sec. 111. RCW 69.50.508 and 1971 ex.s. c 308 s 69.50.508 are each amended to read as follows:

(a) The (~~state board of pharmacy~~) commission may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs it may:

(1) promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(2) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(3) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(5) disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and

(6) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(b) The (~~board~~) commission may encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this chapter, it may:

(1) establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake programs of research to:

(i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this chapter;

(ii) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,

(iii) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and,

(3) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(c) The (~~board~~) commission may enter into contracts for educational and research activities without performance bonds.

(d) The (~~board~~) commission may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(e) The (~~board~~) commission may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

Sec. 112. RCW 69.50.601 and 1971 ex.s. c 308 s 69.50.601 are each amended to read as follows:

(a) Prosecution for any violation of law occurring prior to May 21, 1971 is not affected or abated by this chapter. If the offense being prosecuted is similar to one set out in Article IV of this chapter, then the penalties under Article IV apply if they are less than those under prior law.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to May 21, 1971 are not affected by this chapter.

(c) All administrative proceedings pending under prior laws which are superseded by this chapter shall be continued and brought to a final determination in accord with the laws and rules in effect prior to May 21, 1971. Any substance controlled under prior law which is not listed within Schedules I through V, is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) The (~~state board of pharmacy~~) commission shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to May 21, 1971 and who are registered or licensed by the state.

(e) This chapter applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following May 21, 1971.

Sec. 113. RCW 69.51.030 and 1989 1st ex.s. c 9 s 438 are each amended to read as follows:

As used in this chapter:

(1) (~~"Board" means the state board of pharmacy;~~) "Commission" means the pharmacy quality assurance commission;

(2) "Department" means the department of health((-);

(3) "Marijuana" means all parts of the plant of the genus Cannabis L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin; and

(4) "Practitioner" means a physician licensed pursuant to chapter 18.71 or 18.57 RCW.

Sec. 114. RCW 69.51.040 and 1989 1st ex.s. c 9 s 439 are each amended to read as follows:

(1) There is established in the ((board)) commission the controlled substances therapeutic research program. The program shall be administered by the department. The ((board)) commission shall promulgate rules necessary for the proper administration of the Controlled Substances Therapeutic Research Act. In such promulgation, the ((board)) commission shall take into consideration those pertinent rules promulgated by the United States drug enforcement agency, the food and drug administration, and the national institute on drug abuse.

(2) Except as provided in RCW 69.51.050(4), the controlled substances therapeutic research program shall be limited to cancer chemotherapy and radiology patients and glaucoma patients, who are certified to the patient qualification review committee by a practitioner as being involved in a life-threatening or sense-threatening situation. No patient may be admitted to the controlled substances therapeutic research program without full disclosure by the practitioner of the experimental nature of this program and of the possible risks and side effects of the proposed treatment in accordance with the informed consent provisions of chapter 7.70 RCW.

(3) The ((board)) commission shall provide by rule for a program of registration with the department of bona fide controlled substance therapeutic research projects.

Sec. 115. RCW 69.51.050 and 1979 c 136 s 5 are each amended to read as follows:

(1) The ((board)) commission shall appoint a patient qualification review committee to serve at its pleasure. The patient qualification review committee shall be comprised of:

(a) A physician licensed to practice medicine in Washington state and specializing in the practice of ophthalmology;

(b) A physician licensed to practice medicine in Washington state and specializing in the subspecialty of medical oncology;

(c) A physician licensed to practice medicine in Washington state and specializing in the practice of psychiatry; and

(d) A physician licensed to practice medicine in Washington state and specializing in the practice of radiology.

Members of the committee shall be compensated at the rate of fifty dollars per day for each day spent in the performance of their official duties, and shall receive reimbursement for their travel expenses as provided in RCW 43.03.050 and 43.03.060.

(2) The patient qualification review committee shall review all applicants for the controlled substance therapeutic research program and their licensed practitioners and certify their participation in the program.

(3) The patient qualification review committee and the ~~((board))~~ commission shall insure that the privacy of individuals who participate in the controlled substance therapeutic research program is protected by withholding from all persons not connected with the conduct of the research the names and other identifying characteristics of such individuals. Persons authorized to engage in research under the controlled substance therapeutic research program may not be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was granted, except to the extent necessary to permit the ~~((board))~~ commission to determine whether the research is being conducted in accordance with the authorization.

(4) The patient qualification review committee may include other disease groups for participation in the controlled substances therapeutic research program after pertinent medical data have been presented by a practitioner to both the committee and the ~~((board))~~ commission, and after approval for such participation has been granted pursuant to pertinent rules promulgated by the United States drug enforcement agency, the food and drug administration, and the national institute on drug abuse.

Sec. 116. RCW 69.51.060 and 1979 c 136 s 6 are each amended to read as follows:

(1) The ~~((board))~~ commission shall obtain marijuana through whatever means it deems most appropriate and consistent with regulations promulgated by the United States food and drug administration, the drug enforcement agency, and the national institute on drug abuse, and pursuant to the provisions of this chapter.

(2) The ~~((board))~~ commission may use marijuana which has been confiscated by local or state law enforcement agencies and has been determined to be free from contamination.

(3) The ~~((board))~~ commission shall distribute the analyzed marijuana to approved practitioners and/or institutions in accordance with rules promulgated by the ~~((board))~~ commission.

Sec. 117. RCW 69.60.020 and 1989 c 247 s 3 are each amended to read as follows:

The terms defined in this section shall have the meanings indicated when used in this chapter.

(1) "Solid dosage form" means capsules or tablets or similar over-the-counter medication products intended for administration and which could be ingested orally.

(2) "Over-the-counter medication" means a drug that can be obtained without a prescription and is not restricted to use by prescribing practitioners. For purposes of this chapter, over-the-counter medication does not include vitamins.

(3) ~~("Board" means the state board of pharmacy.)~~ "Commission" means the pharmacy quality assurance commission.

(4) "Purveyor" means any corporation, person, or other entity that offers over-the-counter medications for wholesale, retail, or other type of sale.

Sec. 118. RCW 69.60.040 and 1989 c 247 s 4 are each amended to read as follows:

Each manufacturer shall publish and provide to the ((~~board~~)) commission printed material which will identify each current imprint used by the manufacturer and the ((~~board~~)) commission shall be notified of any change. This information shall be provided by the ((~~board~~)) commission to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms.

Sec. 119. RCW 69.60.060 and 1989 c 247 s 6 are each amended to read as follows:

The ((~~board~~)) commission shall have authority to promulgate rules for the enforcement and implementation of this chapter.

Sec. 120. RCW 69.60.080 and 1989 c 247 s 8 are each amended to read as follows:

The ((~~board~~)) commission, upon application of a manufacturer, may exempt an over-the-counter drug from the requirements of chapter 69.60 RCW on the grounds that imprinting is infeasible because of size, texture, or other unique characteristics.

Sec. 121. RCW 69.60.090 and 1993 c 135 s 3 are each amended to read as follows:

Before January 1, 1994, the ((~~board of pharmacy~~)) commission will consult with the state toxicologist to determine whether the federal government has established a legally enforceable system that is substantially equivalent to the requirements of this chapter that govern the imprinting of solid dosage form over-the-counter medication. To be substantially equivalent, the effective dates for implementation of the federal system for imprinting solid dosage form over-the-counter medication must be the same or earlier than the dates of implementation set out in the state system for imprinting solid dosage form over-the-counter medication. If the ((~~board~~)) commission determines that the federal system for imprinting solid dosage form over-the-counter medication is substantially equivalent to the state system for imprinting solid dosage form over-the-counter medication, this chapter will cease to exist on January 1, 1994. If the ((~~board~~)) commission determines that the federal system is substantially equivalent, except that the federal dates for implementation are later than the Washington state dates, this chapter will cease to exist when the federal system is implemented.

Sec. 122. RCW 70.24.280 and 1988 c 206 s 605 are each amended to read as follows:

The ((~~state board of pharmacy~~)) pharmacy quality assurance commission shall adopt rules that require appropriate education and training for licensees on the prevention, transmission, and treatment of AIDS. The ((~~board~~)) commission shall work with the office on AIDS under RCW 70.24.250 to develop the training and educational material necessary for health professionals.

Sec. 123. RCW 70.54.140 and 1977 ex.s. c 122 s 2 are each amended to read as follows:

No hospital or health facility may interfere with the physician/patient relationship by restricting or forbidding the use of amygdalin (Laetrile) when prescribed or administered by a physician licensed pursuant to chapter 18.57 or 18.71 RCW and requested by a patient under his/her care who has requested the substance after having been given sufficient information in writing to make an informed decision.

For the purposes of RCW 70.54.130 through 70.54.150, the (~~state board of pharmacy~~) pharmacy quality assurance commission shall provide for the certification as to the identity of amygdalin (Laetrile) by random sample testing or other testing procedures, and shall promulgate rules and regulations necessary to implement and enforce its authority under this section.

Sec. 124. RCW 70.106.150 and 1987 c 236 s 1 are each amended to read as follows:

The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the director. However, the director shall designate the (~~Washington state board of pharmacy~~) pharmacy quality assurance commission to carry out all the provisions of this chapter pertaining to drugs and cosmetics, with authority to promulgate regulations for the efficient enforcement thereof.

Sec. 125. RCW 70.127.130 and 1993 c 42 s 9 are each amended to read as follows:

Licensees shall conform to the standards of RCW 69.41.030 and 69.50.308. Rules adopted by the department concerning the use of legend drugs or controlled substances shall reference and be consistent with (~~board of pharmacy~~) pharmacy quality assurance commission rules.

Sec. 126. RCW 70.225.020 and 2012 c 192 s 1 are each amended to read as follows:

(1) When sufficient funding is provided for such purpose through federal or private grants, or is appropriated by the legislature, the department shall establish and maintain a prescription monitoring program to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the (~~board of pharmacy~~) pharmacy quality assurance commission as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and overprescribing of controlled substances, and improving controlled substance prescribing practices with the intent of eventually establishing an electronic database available in real time to dispensers and prescribers of controlled substances. As much as possible, the department should establish a common database with other states.

(2) Except as provided in subsection (4) of this section, each dispenser shall submit to the department by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than one day use should be reported. The information submitted for each prescription shall include, but not be limited to:

- (a) Patient identifier;
- (b) Drug dispensed;

- (c) Date of dispensing;
- (d) Quantity dispensed;
- (e) Prescriber; and
- (f) Dispenser.

(3) Each dispenser shall submit the information in accordance with transmission methods established by the department.

(4) The data submission requirements of subsections (1) through (3) of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses;

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in department of corrections institutions who are receiving pharmaceutical services from a department of corrections pharmacy, except that the department of corrections must submit data related to each offender's current prescriptions for controlled substances upon the offender's release from a department of corrections institution; or

(c) Veterinarians licensed under chapter 18.92 RCW. The department, in collaboration with the veterinary board of governors, shall establish alternative data reporting requirements for veterinarians that allow veterinarians to report:

(i) By either electronic or nonelectronic methods;

(ii) Only those data elements that are relevant to veterinary practices and necessary to accomplish the public protection goals of this chapter; and

(iii) No more frequently than once every three months and no less frequently than once every six months.

(5) The department shall seek federal grants to support the activities described in chapter 259, Laws of 2007. The department may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation of the system.

Sec. 127. RCW 82.04.272 and 2003 c 168 s 401 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of warehousing and reselling drugs for human use pursuant to a prescription; as to such persons, the amount of the tax shall be equal to the gross income of the business multiplied by the rate of 0.138 percent.

(2) For the purposes of this section:

(a) "Prescription" and "drug" have the same meaning as in RCW 82.08.0281; and

(b) "Warehousing and reselling drugs for human use pursuant to a prescription" means the buying of drugs for human use pursuant to a prescription from a manufacturer or another wholesaler, and reselling of the drugs to persons selling at retail or to hospitals, clinics, health care providers, or other providers of health care services, by a wholesaler or retailer who is registered with the federal drug enforcement administration and licensed by the ~~((state board of pharmacy))~~ pharmacy quality assurance commission.

NEW SECTION. Sec. 128. Section 44 of this act expires July 1, 2016.

NEW SECTION. Sec. 129. Section 45 of this act takes effect July 1, 2016.

Passed by the House March 5, 2013.
 Passed by the Senate April 9, 2013.
 Approved by the Governor April 18, 2013.
 Filed in Office of Secretary of State April 18, 2013.

CHAPTER 20

[Substitute Senate Bill 5021]
 CRIMES—RIOT—MISCHIEF

AN ACT Relating to changing the crime of riot to the crime of criminal mischief; amending RCW 9A.84.010 and 13.40.0357; prescribing penalties; and providing an effective date.

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

Sec. 1. RCW 9A.84.010 and 2003 c 53 s 91 are each amended to read as follows:

(1) A person is guilty of the crime of ~~((riot))~~ criminal mischief if, acting with three or more other persons, he or she knowingly and unlawfully uses or threatens to use force, or in any way participates in the use of such force, against any other person or against property.

(2)(a) Except as provided in (b) of this subsection, the crime of ~~((riot))~~ criminal mischief is a gross misdemeanor.

(b) The crime of ~~((riot))~~ criminal mischief is a class C felony if the actor is armed with a deadly weapon.

Sec. 2. RCW 13.40.0357 and 2012 c 177 s 4 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+
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B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045)	C+
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

B+	Burglary 1 (9A.52.020)	C+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E

Drugs

E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B

C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
Firearms and Weapons		
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(iii))	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+	(Riot) <u>Criminal Mischief</u> with Weapon (9A.84.010(2)(b))	D+
D+	(Riot) <u>Criminal Mischief</u> Without Weapon (9A.84.010(2)(a))	E

E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
Sex Crimes		
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
A-	Child Molestation 1 (9A.44.083)	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (9A.44.132)	D
Theft, Robbery, Extortion, and Forgery		
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D

B	Theft of a Motor Vehicle (9A.56.065)	C
	Motor Vehicle Related Crimes	
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
	Other	
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1 ¹ (9A.76.110)	C
C	Escape 2 ¹ (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) ²	V

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 - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

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, D, or RCW 13.40.167.

**OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE**

	A+	180 weeks to age 21 for all category A+ offenses				
	A	103-129 weeks for all category A offenses				
	A-	15-36 weeks Except 30-40 weeks for 15 to 17 year olds	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR ADJUDICATIONS		0	1	2	3	4 or more

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

**OPTION B
SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

(a) Adjudicated of an A+ offense;

(b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060); or

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential burglary (RCW 9A.52.025), burglary in the second degree (RCW 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a witness (RCW 9A.72.110), violation of the uniform controlled substances act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Ordered to serve a disposition for a firearm violation under RCW 13.40.193; or

(d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

OR

OPTION C

CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION D

MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

NEW SECTION. **Sec. 3.** This act takes effect January 1, 2014.

Passed by the Senate January 30, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 21

[Senate Bill 5025]

STATE OF EMERGENCY PROCLAMATION

AN ACT Relating to a proclamation of a state of emergency; and amending RCW 43.06.210.

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

Sec. 1. RCW 43.06.210 and 1977 ex.s. c 328 s 12 are each amended to read as follows:

The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. A proclamation of a state of emergency is effective upon the governor's signature. The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended. The state of emergency shall cease to exist upon the issuance of a proclamation of the governor declaring its termination: PROVIDED, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected.

Passed by the Senate March 11, 2013.

Passed by the House April 11, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 22

[Senate Bill 5046]

DISTRICT JUDGES—RETIREMENT

AN ACT Relating to modifying the mandatory retirement provision for district judges; and amending RCW 3.74.030.

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

Sec. 1. RCW 3.74.030 and 1984 c 258 s 56 are each amended to read as follows:

A district judge shall retire from judicial office at the (~~end of the calendar year~~) expiration of the judge's term of office in which he or she has attained the age of seventy-five years. This provision shall not affect the term to which any such judge shall have been elected or appointed prior to August 11, 1969.

Passed by the Senate January 30, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 23

[Substitute Senate Bill 5077]

STATUTES—GENDER-NEUTRAL TERMS

AN ACT Relating to technical corrections to gender-based terms; amending RCW 2.48.210, 6.13.080, 8.16.090, 9.91.020, 13.34.105, 13.50.010, 13.50.100, 13.50.140, 18.20.185, 18.20.305, 18.20.390, 18.20.420, 18.27.090, 18.106.010, 18.106.020, 18.106.030, 18.106.040, 18.106.050, 18.106.070, 18.106.075, 18.106.080, 18.106.090, 18.106.100, 18.106.110, 18.106.150, 18.106.155, 19.28.006, 19.28.161, 19.28.191, 19.28.201, 19.28.205, 19.28.211, 19.28.221, 19.28.231, 19.28.241, 19.28.261, 20.01.030, 22.09.860, 24.34.010, 26.12.185, 26.44.030, 26.44.220, 28A.175.075, 28A.175.140, 28A.230.020, 28A.300.136, 28A.300.285, 28A.300.2851, 28B.10.053, 28B.15.102, 28B.45.020, 28B.45.030, 28B.45.040, 28B.50.278, 28B.76.502, 28B.77.090, 28B.77.220, 35.39.060, 35.50.260, 35A.37.010, 35A.42.040, 35A.84.010, 36.39.060, 41.04.130, 41.26.110, 41.26.150, 43.06A.010, 43.06A.020, 43.06A.030, 43.06A.050, 43.06A.060, 43.06A.070, 43.06A.080, 43.06A.085, 43.06A.090, 43.06A.100, 43.06A.110, 43.06B.010, 43.06B.020, 43.06B.030, 43.06B.040, 43.06B.050, 43.06B.060, 43.190.010, 43.190.030, 43.190.040, 43.190.050, 43.190.060, 43.190.065, 43.190.070, 43.190.080, 43.190.080, 43.190.090, 43.190.110, 43.190.120, 43.215.520, 44.04.220, 48.02.093, 48.18A.070, 50.22.010, 51.04.063, 51.14.300, 51.14.310, 51.14.320, 51.14.330, 51.14.340, 51.14.350, 51.14.360, 51.14.370, 51.14.380, 51.14.390, 51.14.400, 51.44.150, 59.20.210, 60.13.020, 60.13.040, 60.13.050, 60.13.060, 60.36.030, 60.36.040, 60.42.040, 62A.2-201, 62A.2-210, 62A.2-304, 62A.2-305, 62A.2-308, 62A.2-311, 62A.2-312, 62A.2-313, 62A.2-316, 62A.2-318, 62A.2-319, 62A.2-320, 62A.2-324, 62A.2-325, 62A.2-328, 62A.2-402, 62A.2-501, 62A.2-502, 62A.2-504, 62A.2-507, 62A.2-508, 62A.2-610, 62A.2-602, 62A.2-603, 62A.2-604, 62A.2-606, 62A.2-607, 62A.2-608, 62A.2-609, 62A.2-610, 62A.2-611, 62A.2-612, 62A.2-613, 62A.2-615, 62A.2-616, 62A.2-702, 62A.2-704, 62A.2-706, 62A.2-707, 62A.2-709, 62A.2-711, 62A.2-712, 62A.2-714, 62A.2-716, 62A.2-717, 62A.2-718, 62A.2-722, 62A.2-723, 62A.11-109, 64.34.364, 66.20.120, 67.08.080, 67.16.200, 70.97.040, 70.97.100, 70.128.150, 70.128.163, 70.128.200, 70.129.030, 70.129.090, 70.129.110, 70.129.160, 70.129.170, 71.24.350, 73.16.061, 73.20.010, 74.04.011, 74.04.014, 74.04.080, 74.04.350, 74.04.385, 74.04.480, 74.08.050, 74.08.280, 74.08.340, 74.08.370, 74.09.210, 74.09.230, 74.12.010, 74.12.250, 74.13.334, 74.13.368, 74.13.640, 74.13A.025, 74.13A.040, 74.13A.075, 74.15.140, 74.20.260, 74.20A.040, 74.20A.130, 74.20A.150, 74.34.095, 74.34.200, 76.09.100, 76.36.100, 74.36.110, 74.36.120, 74.36.130, 74.38.040, 74.38.050, 74.39A.060, 74.39A.380, 74.42.450, 74.42.640, 76.09.320, 76.14.080, 76.14.090, 76.14.100, 76.14.110, 76.42.030, 76.52.020, 77.04.060, 77.12.370, 77.12.620, 77.12.760, 77.15.570, 77.32.155, 77.65.280, 77.65.340, 77.95.030, 78.04.030, 78.08.080, 78.08.100, 78.12.070, 78.16.030, 78.16.040, 78.52.550, 78.60.110, 78.60.170, 78.60.250, 79.02.150, 79.14.060, 79.22.120, 79.24.030, 79.24.150, 79.24.660, 79.44.050, 79.44.100, 79A.05.085, 79A.05.105, 79A.05.700, 80.01.020, 80.01.100, 80.04.020, 80.04.040, 80.04.050, 80.04.070, 80.04.120, 80.04.170, 80.04.280,

80.04.460, 80.04.470, 80.04.510, 80.08.110, 80.32.100, 80.50.080, 81.04.020, 81.04.040, 81.04.050, 81.04.070, 81.04.120, 81.04.280, 81.04.460, 81.04.500, 81.04.510, 81.08.110, 81.24.070, 81.28.290, 81.40.060, 81.40.110, 81.44.070, 81.48.060, 81.48.070, 81.52.050, 81.53.010, 81.53.030, 81.53.120, 81.53.261, 81.64.160, 81.77.020, 81.80.100, 81.80.355, 81.96.030, 82.03.050, 82.03.060, 82.03.080, 82.04.290, 82.04.425, 82.08.0266, 82.08.0269, 82.08.100, 82.12.070, 82.24.210, 82.24.250, 82.32.070, 82.32.120, 82.32.170, 82.32.260, 82.32.270, 82.32.310, 82.36.110, 82.36.250, 82.36.410, 82.38.060, 82.38.275, 82.41.080, 82.42.040, 82.42.100, 82.44.140, 82.50.520, 82.56.030, 82.56.040, 83.100.020, 84.08.120, 84.08.140, 84.08.190, 84.09.040, 84.12.240, 84.16.032, 84.36.300, 84.36.320, 84.36.400, 84.36.813, 84.36.850, 84.38.040, 84.38.060, 84.38.080, 84.38.090, 84.40.070, 84.40.110, 84.40.160, 84.40.185, 84.40.210, 84.40.220, 84.40.240, 84.40.370, 84.41.080, 84.41.120, 84.44.080, 84.48.018, 84.56.090, 84.56.210, 84.56.210, 84.56.270, 84.56.320, 84.60.040, 84.64.040, 84.64.130, 84.64.180, 84.68.110, 84.68.120, 84.68.150, 84.69.090, 85.05.076, 85.05.100, 85.05.120, 85.05.130, 85.05.150, 85.05.160, 85.05.180, 85.06.100, 85.06.120, 85.06.130, 85.06.150, 85.06.160, 85.06.180, 85.06.210, 85.06.250, 85.06.330, 85.06.550, 85.06.560, 85.06.570, 85.06.600, 85.06.630, 85.06.750, 85.07.070, 85.07.090, 85.07.120, 85.07.140, 85.08.360, 85.08.400, 85.08.410, 85.08.420, 85.08.440, 85.08.490, 85.08.500, 85.08.570, 85.08.820, 85.08.840, 85.15.030, 85.15.090, 85.15.110, 85.15.150, 85.16.130, 85.16.150, 85.18.160, 85.16.210, 85.16.230, 85.18.040, 85.18.100, 85.18.120, 85.24.070, 85.24.075, 85.24.130, 85.24.140, 85.24.150, 85.24.160, 85.24.170, 85.24.180, 85.24.290, 85.28.030, 85.28.040, 85.28.060, 85.28.080, 85.28.090, 85.32.050, 85.32.060, 85.32.170, 86.09.259, 86.09.292, 86.09.301, 86.09.304, 86.09.310, 86.09.319, 86.09.325, 86.09.328, 86.09.391, 86.09.430, 86.09.433, 86.09.448, 86.09.466, 86.09.493, 86.09.496, 86.09.499, 86.09.502, 86.09.508, 86.09.511, 86.09.556, 86.09.562, 86.09.619, 86.09.703, 86.13.030, 86.13.050, 86.13.060, 86.13.090, 86.13.100, 86.15.060, 86.15.130, 86.16.035, 86.24.030, 87.03.025, 87.03.031, 87.03.032, 87.03.033, 87.03.045, 87.03.075, 87.03.080, 87.03.081, 87.03.082, 87.03.090, 87.03.100, 87.03.110, 87.03.115, 87.03.175, 87.03.180, 87.03.245, 87.03.250, 87.03.255, 87.03.260, 87.03.270, 87.03.272, 87.03.280, 87.03.442, 87.03.570, 87.03.610, 87.03.660, 87.03.690, 87.03.760, 87.03.765, 87.03.820, 87.04.010, 87.22.065, 87.22.215, 87.25.030, 87.25.060, 87.25.100, 87.52.030, 87.52.040, 87.52.060, 87.53.100, 87.53.120, 87.53.150, 87.56.040, 87.56.180, 87.56.190, 87.56.203, 87.56.210, 87.64.010, 87.64.020, 87.64.040, 87.84.070, 88.08.060, 88.16.130, 88.24.010, 88.24.020, 88.24.030, 88.32.020, 88.32.040, 88.32.090, 88.32.100, 88.32.140, 88.32.160, 88.32.170, 88.32.190, 88.32.200, 88.32.210, 89.08.010, 89.08.170, 89.08.180, 89.08.200, 89.08.210, 89.12.020, 89.12.050, 89.12.150, 89.16.040, 89.16.045, 89.16.050, 89.30.025, 89.30.034, 89.30.055, 89.30.058, 89.30.109, 89.30.229, 89.30.259, 89.30.265, 89.30.301, 89.30.304, 89.30.307, 89.30.313, 89.30.316, 89.30.322, 89.30.325, 89.30.328, 89.30.352, 89.30.367, 89.30.382, 89.30.565, 89.30.604, 89.30.625, 89.30.649, 89.30.652, 89.30.655, 89.30.670, 89.30.676, 89.30.685, 89.30.700, 89.30.709, 89.30.721, 89.30.724, 89.30.730, 89.30.790, 90.03.040, 90.03.070, 90.03.210, 90.03.220, 90.03.250, 90.03.270, 90.03.410, 90.03.440, 90.03.450, 90.08.040, 90.08.050, 90.08.060, 90.08.070, 90.14.061, 90.14.101, 90.14.130, 90.14.170, 90.24.020, 90.24.050, 90.44.110, 90.44.130, 90.48.095, 90.58.170, 91.08.030, 91.08.080, 91.08.130, 91.08.150, 91.08.170, 91.08.220, 91.08.250, 91.08.250, 91.08.280, 91.08.340, 91.08.370, 91.08.390, 91.08.400, 91.08.410, 91.08.430, 91.08.460, 91.08.500, 91.08.510, 91.08.550, 91.08.560, 91.08.590, 91.08.600, and 91.08.620; reenacting and amending RCW 19.28.041, 26.44.030, 27.53.030, 28B.50.100, 60.13.010, 74.13.333, 80.50.150, 82.36.310, and 87.03.440; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 2.48.210 and 1921 c 126 s 12 are each amended to read as follows:

Every person before being admitted to practice law in this state shall take and subscribe the following oath:

I do solemnly swear:

I am a citizen of the United States and owe my allegiance thereto;

I will support the Constitution of the United States and the Constitution of the state of Washington;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land, unless it be in defense of a person charged

with a public offense; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his or her business except from him or her or with his or her knowledge and approval;

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any (~~man's~~) person's cause for lucre or malice. So help me God.

Sec. 2. RCW 6.13.080 and 2008 c 6 s 635 are each amended to read as follows:

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

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

(2) On debts secured (a) by security agreements describing as collateral the property that is claimed as a homestead or (b) by mortgages or deeds of trust on the premises that have been executed and acknowledged by both spouses or both domestic partners or by any claimant not married or in a state registered domestic partnership;

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

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

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

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

homeowner. Failure to give the notice specified in this subsection affects an association's lien only for debts accrued up to the time an association complies with the notice provisions under this subsection; or

(7) On debts owed for taxes collected under chapters 82.08, 82.12, and 82.14 RCW but not remitted to the department of revenue.

Sec. 3. RCW 8.16.090 and 1909 p 374 s 9 are each amended to read as follows:

When ten of the jurors agree upon a verdict, the verdict so agreed upon shall be signed by the ((foreman)) jury foreperson, and the verdict so agreed upon shall be and stand as the verdict of the jury.

Sec. 4. RCW 9.91.020 and 2000 c 239 s 3 are each amended to read as follows:

Every person who, being employed upon any railway, as engineer, ((motorman)) motor operator, ((gripman)) grip operator, conductor, switch tender, ((fireman)) fire tender, bridge tender, flagger, or ((signalman)) signal operator, or having charge of stations, starting, regulating, or running trains upon a railway, or being employed as captain, engineer, or other officer of a vessel propelled by steam, or being the driver of any animal or vehicle upon any public highway, street, or other public place, is intoxicated while engaged in the discharge of any such duties, shall be guilty of a gross misdemeanor.

Sec. 5. RCW 13.34.105 and 2011 c 309 s 26 are each amended to read as follows:

(1) Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the court to serve as a guardian ad litem, include but are not limited to the following:

(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child;

(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;

(d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

(e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties;

(f) To represent and be an advocate for the best interests of the child;

(g) To inform the child, if the child is twelve years old or older, of his or her right to request counsel and to ask the child whether he or she wishes to have counsel, pursuant to RCW 13.34.100(6). The guardian ad litem shall report to the court that the child was notified of this right and indicate the child's position regarding appointment of counsel. The guardian ad litem shall report to the

court his or her independent recommendation as to whether appointment of counsel is in the best interest of the child; and

(h) In the case of an Indian child as defined in RCW 13.38.040, know, understand, and advocate the best interests of the Indian child.

(2) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

(3) Except for information or records specified in RCW 13.50.100(7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

(4) A guardian ad litem may release confidential information, records, and reports to the office of the family and children's (~~ombudsman~~) ombuds for the purposes of carrying out its duties under chapter 43.06A RCW.

(5) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

Sec. 6. RCW 13.50.010 and 2011 1st sp.s. c 40 s 30 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of the family and children's (~~ombudsman~~) ombuds, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(d) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court shall release to the caseload forecast council records needed for its research and data-gathering functions. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the caseload forecast council upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(10) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's (~~ombudsman~~) ombuds.

(11) For the purpose of research only, the administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. Access to the research copy is restricted to the Washington state center for court research. The Washington state center for court research shall maintain the confidentiality of all confidential records

and shall preserve the anonymity of all persons identified in the research copy. The research copy may not be subject to any records retention schedule and must include records destroyed or removed from the judicial information system pursuant to RCW 13.50.050 (17) and (18) and 13.50.100(3).

(12) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records.

Sec. 7. RCW 13.50.100 and 2003 c 105 s 2 are each amended to read as follows:

(1) This section governs records not covered by RCW 13.50.050.

(2) Records covered by this section shall be confidential and shall be released only pursuant to this section and RCW 13.50.010.

(3) Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility of supervising the juvenile. Records covered under this section and maintained by the juvenile courts which relate to the official actions of the agency may be entered in the statewide judicial information system. However, truancy records associated with a juvenile who has no other case history, and records of a juvenile's parents who have no other case history, shall be removed from the judicial information system when the juvenile is no longer subject to the compulsory attendance laws in chapter 28A.225 RCW. A county clerk is not liable for unauthorized release of this data by persons or agencies not in his or her employ or otherwise subject to his or her control, nor is the county clerk liable for inaccurate or incomplete information collected from litigants or other persons required to provide identifying data pursuant to this section.

(4) Subject to (a) of this subsection, the department of social and health services may release information retained in the course of conducting child protective services investigations to a family or juvenile court hearing a petition for custody under chapter 26.10 RCW.

(a) Information that may be released shall be limited to information regarding investigations in which: (i) The juvenile was an alleged victim of abandonment or abuse or neglect; or (ii) the petitioner for custody of the juvenile, or any individual aged sixteen or older residing in the petitioner's household, is the subject of a founded or currently pending child protective services investigation made by the department subsequent to October 1, 1998.

(b) Additional information may only be released with the written consent of the subject of the investigation and the juvenile alleged to be the victim of abandonment or abuse and neglect, or the parent, custodian, guardian, or personal representative of the juvenile, or by court order obtained with notice to all interested parties.

(5) Any disclosure of records or information by the department of social and health services pursuant to this section shall not be deemed a waiver of any confidentiality or privilege attached to the records or information by operation of

any state or federal statute or regulation, and any recipient of such records or information shall maintain it in such a manner as to comply with such state and federal statutes and regulations and to protect against unauthorized disclosure.

(6) A contracting agency or service provider of the department of social and health services that provides counseling, psychological, psychiatric, or medical services may release to the office of the family and children's ((ombudsman)) ombuds information or records relating to services provided to a juvenile who is dependent under chapter 13.34 RCW without the consent of the parent or guardian of the juvenile, or of the juvenile if the juvenile is under the age of thirteen years, unless such release is otherwise specifically prohibited by law.

(7) A juvenile, his or her parents, the juvenile's attorney, and the juvenile's parent's attorney, shall, upon request, be given access to all records and information collected or retained by a juvenile justice or care agency which pertain to the juvenile except:

(a) If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his or her parents the agency may withhold the information subject to other order of the court: PROVIDED, That if the court determines that limited release of the information is appropriate, the court may specify terms and conditions for the release of the information; or

(b) If the information or record has been obtained by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric, or medical services to the juvenile, when the services have been sought voluntarily by the juvenile, and the juvenile has a legal right to receive those services without the consent of any person or agency, then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile unless otherwise authorized by law; or

(c) That the department of social and health services may delete the name and identifying information regarding persons or organizations who have reported alleged child abuse or neglect.

(8) A juvenile or his or her parent denied access to any records following an agency determination under subsection (7) of this section may file a motion in juvenile court requesting access to the records. The court shall grant the motion unless it finds access may not be permitted according to the standards found in subsection (7)(a) and (b) of this section.

(9) The person making a motion under subsection (8) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(10) Subject to the rules of discovery in civil cases, any party to a proceeding seeking a declaration of dependency or a termination of the parent-child relationship and any party's counsel and the guardian ad litem of any party, shall have access to the records of any natural or adoptive child of the parent, subject to the limitations in subsection (7) of this section. A party denied access to records may request judicial review of the denial. If the party prevails, he or she shall be awarded attorneys' fees, costs, and an amount not less than five dollars and not more than one hundred dollars for each day the records were wrongfully denied.

(11) No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020~~((+2))~~ (1) may be disclosed to a child-placing agency, private adoption agency, or any other licensed provider.

Sec. 8. RCW 13.50.140 and 1999 c 390 s 8 are each amended to read as follows:

Any communication or advice privileged under RCW 5.60.060 that is disclosed by the office of the attorney general or the department of social and health services to the office of the family and children's ~~((ombudsman))~~ ombuds may not be deemed to be a waiver of the privilege as to others.

Sec. 9. RCW 18.20.185 and 2001 c 193 s 2 are each amended to read as follows:

(1) The department shall establish and maintain a toll-free telephone number for receiving complaints regarding a facility that the department licenses.

(2) All facilities that are licensed under this chapter shall post in a place and manner clearly visible to residents and visitors the department's toll-free complaint telephone number and the toll-free number and program description of the long-term care ~~((ombudsman))~~ ombuds as provided by RCW 43.190.050.

(3) The department shall investigate complaints if the subject of the complaint is within its authority unless the department determines that: (a) The complaint is intended to willfully harass a licensee or employee of the licensee; or (b) there is no reasonable basis for investigation; or (c) corrective action has been taken as determined by the ~~((ombudsman))~~ ombuds or the department.

(4) The department shall refer complaints to appropriate state agencies, law enforcement agencies, the attorney general, the long-term care ~~((ombudsman))~~ ombuds, or other entities if the department lacks authority to investigate or if its investigation reveals that a follow-up referral to one or more of these entities is appropriate.

(5) The department shall adopt rules that include the following complaint investigation protocols:

(a) Upon receipt of a complaint, the department shall make a preliminary review of the complaint, assess the severity of the complaint, and assign an appropriate response time. Complaints involving imminent danger to the health, safety, or well-being of a resident must be responded to within two days. When appropriate, the department shall make an on-site investigation within a reasonable time after receipt of the complaint or otherwise ensure that complaints are responded to.

(b) The complainant must be: Promptly contacted by the department, unless anonymous or unavailable despite several attempts by the department, and informed of the right to discuss alleged violations with the inspector and to provide other information the complainant believes will assist the inspector; informed of the department's course of action; and informed of the right to receive a written copy of the investigation report.

(c) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to interview the resident or residents allegedly harmed by the violations, and, in addition to facility staff, any available independent sources of relevant information, including if appropriate the family members of the resident.

(d) Substantiated complaints involving harm to a resident, if an applicable law or regulation has been violated, shall be subject to one or more of the actions provided in RCW 18.20.190. Whenever appropriate, the department shall also give consultation and technical assistance to the facility.

(e) After a department finding of a violation for which a stop placement has been imposed, the department shall make an on-site revisit of the provider within fifteen working days from the request for revisit, to ensure correction of the violation. For violations that are serious or recurring or uncorrected following a previous citation, and create actual or threatened harm to one or more residents' well-being, including violations of residents' rights, the department shall make an on-site revisit as soon as appropriate to ensure correction of the violation. Verification of correction of all other violations may be made by either a department on-site revisit or by written or photographic documentation found by the department to be credible. This subsection does not prevent the department from enforcing license suspensions or revocations. Nothing in this subsection shall interfere with or diminish the department's authority and duty to ensure that the provider adequately cares for residents, including to make departmental on-site revisits as needed to ensure that the provider protects residents, and to enforce compliance with this chapter.

(f) Substantiated complaints of neglect, abuse, exploitation, or abandonment of residents, or suspected criminal violations, shall also be referred by the department to the appropriate law enforcement agencies, the attorney general, and appropriate professional disciplining authority.

(6) The department may provide the substance of the complaint to the licensee before the completion of the investigation by the department unless such disclosure would reveal the identity of a complainant, witness, or resident who chooses to remain anonymous. Neither the substance of the complaint provided to the licensee or contractor nor any copy of the complaint or related report published, released, or made otherwise available shall disclose, or reasonably lead to the disclosure of, the name, title, or identity of any complainant, or other person mentioned in the complaint, except that the name of the provider and the name or names of any officer, employee, or agent of the department conducting the investigation shall be disclosed after the investigation has been closed and the complaint has been substantiated. The department may disclose the identity of the complainant if such disclosure is requested in writing by the complainant. Nothing in this subsection shall be construed to interfere with the obligation of the long-term care ((ombudsman)) ombuds program to monitor the department's licensing, contract, and complaint investigation files for long-term care facilities.

(7) The resident has the right to be free of interference, coercion, discrimination, and reprisal from a facility in exercising his or her rights, including the right to voice grievances about treatment furnished or not furnished. A facility licensed under this chapter shall not discriminate or retaliate in any manner against a resident, employee, or any other person on the basis or for the reason that such resident or any other person made a complaint to the department, the attorney general, law enforcement agencies, or the long-term care ((ombudsman)) ombuds, provided information, or otherwise cooperated with the investigation of such a complaint. Any attempt to discharge a resident against the resident's wishes, or any type of retaliatory treatment of a resident by

whom or upon whose behalf a complaint substantiated by the department has been made to the department, the attorney general, law enforcement agencies, or the long-term care ((ombudsman)) ombuds, within one year of the filing of the complaint, raises a rebuttable presumption that such action was in retaliation for the filing of the complaint. "Retaliatory treatment" means, but is not limited to, monitoring a resident's phone, mail, or visits; involuntary seclusion or isolation; transferring a resident to a different room unless requested or based upon legitimate management reasons; withholding or threatening to withhold food or treatment unless authorized by a terminally ill resident or his or her representative pursuant to law; or persistently delaying responses to a resident's request for service or assistance. A facility licensed under this chapter shall not willfully interfere with the performance of official duties by a long-term care ((ombudsman)) ombuds. The department shall sanction and may impose a civil penalty of not more than three thousand dollars for a violation of this subsection.

Sec. 10. RCW 18.20.305 and 2011 c 366 s 4 are each amended to read as follows:

(1) ((A boarding home)) An assisted living facility must provide each nonresident a disclosure statement upon admission and at the time that additional services are requested by a nonresident.

(2) The disclosure statement shall notify the nonresident that:

- (a) The resident rights of chapter 70.129 RCW do not apply to nonresidents;
- (b) Licensing requirements for boarding homes under this chapter do not apply to nonresident units; and
- (c) The jurisdiction of the long-term care ((ombudsman)) ombuds does not apply to nonresidents and nonresident units.

Sec. 11. RCW 18.20.390 and 2012 c 10 s 28 are each amended to read as follows:

(1) To ensure the proper delivery of services and the maintenance and improvement in quality of care through self-review, any assisted living facility licensed under this chapter may maintain a quality assurance committee that, at a minimum, includes:

- (a) A licensed registered nurse under chapter 18.79 RCW;
- (b) The administrator; and
- (c) Three other members from the staff of the assisted living facility.

(2) When established, the quality assurance committee shall meet at least quarterly to identify issues that may adversely affect quality of care and services to residents and to develop and implement plans of action to correct identified quality concerns or deficiencies in the quality of care provided to residents.

(3) To promote quality of care through self-review without the fear of reprisal, and to enhance the objectivity of the review process, the department shall not require, and the long-term care ((ombudsman)) ombuds program shall not request, disclosure of any quality assurance committee records or reports, unless the disclosure is related to the committee's compliance with this section, if:

- (a) The records or reports are not maintained pursuant to statutory or regulatory mandate; and
- (b) The records or reports are created for and collected and maintained by the committee.

(4) If the assisted living facility refuses to release records or reports that would otherwise be protected under this section, the department may then request only that information that is necessary to determine whether the assisted living facility has a quality assurance committee and to determine that it is operating in compliance with this section. However, if the assisted living facility offers the department documents generated by, or for, the quality assurance committee as evidence of compliance with assisted living facility requirements, the documents are protected as quality assurance committee documents under subsections (6) and (8) of this section when in the possession of the department. The department is not liable for an inadvertent disclosure, a disclosure related to a required federal or state audit, or disclosure of documents incorrectly marked as quality assurance committee documents by the facility.

(5) Good faith attempts by the committee to identify and correct quality deficiencies shall not be used as a basis for sanctions.

(6) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude:

(a) In any civil action, the discovery of the identity of persons involved in the care that is the basis of the civil action whose involvement was independent of any quality improvement committee activity;

(b) In any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of their participation in the quality assurance committee activities.

(7) A quality assurance committee under subsection (1) of this section, RCW 70.41.200, 74.42.640, 4.24.250, or 43.70.510 may share information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, the committee, with one or more other quality assurance committees created under subsection (1) of this section, RCW 70.41.200, 74.42.640, 4.24.250, or 43.70.510 for the improvement of the quality of care and services rendered to assisted living facility residents. Information and documents disclosed by one quality assurance committee to another quality assurance committee and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsections (6) and (8) of this section, RCW 43.70.510(4), 70.41.200(3), 4.24.250(1), and 74.42.640 (7) and (9). The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws.

(8) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are exempt from disclosure under chapter 42.56 RCW.

(9) Notwithstanding any records created for the quality assurance committee, the facility shall fully set forth in the resident's records, available to the resident, the department, and others as permitted by law, the facts concerning any incident of injury or loss to the resident, the steps taken by the facility to address the resident's needs, and the resident outcome.

Sec. 12. RCW 18.20.420 and 2012 c 10 s 31 are each amended to read as follows:

(1) If the department determines that the health, safety, or welfare of residents is immediately jeopardized by an assisted living facility's failure or refusal to comply with the requirements of this chapter or the rules adopted under this chapter, and the department summarily suspends the assisted living facility license, the department may appoint a temporary manager of the assisted living facility, or the licensee may, subject to the department's approval, voluntarily participate in the temporary management program.

The purposes of the temporary management program are as follows:

(a) To mitigate dislocation and transfer trauma of residents while the department and licensee may pursue dispute resolution or appeal of a summary suspension of license;

(b) To facilitate the continuity of safe and appropriate resident care and services;

(c) To protect the health, safety, and welfare of residents, by providing time for an orderly closure of the assisted living facility, or for the deficiencies that necessitated temporary management to be corrected; and

(d) To preserve a residential option that meets a specialized service need or is in a geographical area that has a lack of available providers.

(2) The department may recruit, approve, and appoint qualified individuals, partnerships, corporations, and other entities interested in serving as a temporary manager of an assisted living facility. These individuals and entities shall satisfy the criteria established under this chapter or by the department for approving licensees. The department shall not approve or appoint any person, including partnerships and other entities, if that person is affiliated with the assisted living facility subject to the temporary management, or has owned or operated an assisted living facility ordered into temporary management or receivership in any state. When approving or appointing a temporary manager, the department shall consider the temporary manager's past experience in long-term care, the quality of care provided, the temporary manager's availability, and the person's familiarity with applicable state and federal laws. Subject to the provisions of this section and RCW 18.20.430, the department's authority to approve or appoint a temporary manager is discretionary and not subject to the administrative procedure act, chapter 34.05 RCW.

(3) When the department appoints a temporary manager, the department shall enter into a contract with the temporary manager and shall order the licensee to cease operating the assisted living facility and immediately turn over to the temporary manager possession and control of the assisted living facility, including but not limited to all resident care records, financial records, and other

records necessary for operation of the facility while temporary management is in effect. If the department has not appointed a temporary manager and the licensee elects to participate in the temporary management program, the licensee shall select the temporary manager, subject to the department's approval, and enter into a contract with the temporary manager, consistent with this section. The department has the discretion to approve or revoke any temporary management arrangements made by the licensee.

(4) When the department appoints a temporary manager, the costs associated with the temporary management may be paid for through the assisted living facility temporary management account established by RCW 18.20.430, or from other departmental funds, or a combination thereof. All funds must be administered according to department procedures. The department may enter into an agreement with the licensee allowing the licensee to pay for some of the costs associated with a temporary manager appointed by the department. If the department has not appointed a temporary manager and the licensee elects to participate in the temporary management program, the licensee is responsible for all costs related to administering the temporary management program at the assisted living facility and contracting with the temporary manager.

(5) The temporary manager shall assume full responsibility for the daily operations of the assisted living facility and is responsible for correcting cited deficiencies and ensuring that all minimum licensing requirements are met. The temporary manager must comply with all state and federal laws and regulations applicable to assisted living facilities. The temporary manager shall protect the health, safety, and welfare of the residents for the duration of the temporary management and shall perform all acts reasonably necessary to ensure residents' needs are met. The temporary management contract shall address the responsibility of the temporary manager to pay past due debts. The temporary manager's specific responsibilities may include, but are not limited to:

(a) Receiving and expending in a prudent and business-like manner all current revenues of the assisted living facility, provided that priority is given to debts and expenditures directly related to providing care and meeting residents' needs;

(b) Hiring and managing all consultants and employees and firing them for good cause;

(c) Making necessary purchases, repairs, and replacements, provided that such expenditures in excess of five thousand dollars by a temporary manager appointed by the department must be approved by the department;

(d) Entering into contracts necessary for the operation of the assisted living facility;

(e) Preserving resident trust funds and resident records; and

(f) Preparing all department-required reports, including a detailed monthly accounting of all expenditures and liabilities, which shall be sent to the department and the licensee.

(6) The licensee and department shall provide written notification immediately to all residents, resident representatives, interested family members, and the state long-term care ((~~ombudsman~~) ombuds) program of the temporary management and the reasons for it. This notification shall include notice that residents may move from the assisted living facility without notifying the licensee or temporary manager in advance, and without incurring any

charges, fees, or costs otherwise available for insufficient advance notice, during the temporary management period. The notification shall also inform residents and their families or representatives that the temporary management team will provide residents help with relocation and appropriate discharge planning and coordination if desired. The department shall provide assistance with relocation to residents who are department clients and may provide such assistance to other residents. The temporary manager shall meet regularly with staff, residents, residents' representatives, and families to inform them of the plans for and progress achieved in the correction of deficiencies, and of the plans for facility closure or continued operation.

(7) The department shall terminate temporary management:

(a) After sixty days unless good cause is shown to continue the temporary management. Good cause for continuing the temporary management exists when returning the assisted living facility to its former licensee would subject residents to a threat to health, safety, or welfare;

(b) When all residents are transferred and the assisted living facility is closed;

(c) When deficiencies threatening residents' health, safety, or welfare are eliminated and the former licensee agrees to department-specified conditions regarding the continued facility operation; or

(d) When a new licensee assumes control of the assisted living facility.

Nothing in this section precludes the department from revoking its approval of the temporary management or exercising its licensing enforcement authority under this chapter. The department's decision whether to approve or to revoke a temporary management arrangement is not subject to the administrative procedure act, chapter 34.05 RCW.

(8) The department shall indemnify, defend, and hold harmless any temporary manager appointed or approved under this section against claims made against the temporary manager for any actions by the temporary manager or its agents that do not amount to intentional torts or criminal behavior.

(9) The department may adopt rules implementing this section. In the development of rules or policies implementing this section, the department shall consult with residents and their representatives, resident advocates, financial professionals, assisted living facility providers, and organizations representing assisted living facilities.

Sec. 13. RCW 18.27.090 and 2007 c 436 s 6 are each amended to read as follows:

The registration provisions of this chapter do not apply to:

(1) An authorized representative of the United States government, the state of Washington, or any incorporated city, town, county, township, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state;

(2) Officers of a court when they are acting within the scope of their office;

(3) Public utilities operating under the regulations of the utilities and transportation commission in construction, maintenance, or development work incidental to their own business;

(4) Any construction, repair, or operation incidental to the discovering or producing of petroleum or gas, or the drilling, testing, abandoning, or other

operation of any petroleum or gas well or any surface or underground mine or mineral deposit when performed by an owner or lessee;

(5) The sale of any finished products, materials, or articles of merchandise that are not fabricated into and do not become a part of a structure under the common law of fixtures;

(6) Any construction, alteration, improvement, or repair of personal property performed by the registered or legal owner, or by a mobile/manufactured home retail dealer or manufacturer licensed under chapter 46.70 RCW who shall warranty service and repairs under chapter 46.70 RCW;

(7) Any construction, alteration, improvement, or repair carried on within the limits and boundaries of any site or reservation under the legal jurisdiction of the federal government;

(8) Any person who only furnished materials, supplies, or equipment without fabricating them into, or consuming them in the performance of, the work of the contractor;

(9) Any work or operation on one undertaking or project by one or more contracts, the aggregate contract price of which for labor and materials and all other items is less than five hundred dollars, such work or operations being considered as of a casual, minor, or inconsequential nature. The exemption prescribed in this subsection does not apply in any instance wherein the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made into contracts of amounts less than five hundred dollars for the purpose of evasion of this chapter or otherwise. The exemption prescribed in this subsection does not apply to a person who advertises or puts out any sign or card or other device which might indicate to the public that he or she is a contractor, or that he or she is qualified to engage in the business of contractor;

(10) Any construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts or reclamation districts; or to farming, dairying, agriculture, viticulture, horticulture, or stock or poultry raising; or to clearing or other work upon land in rural districts for fire prevention purposes; except when any of the above work is performed by a registered contractor;

(11) An owner who contracts for a project with a registered contractor, except that this exemption shall not deprive the owner of the protections of this chapter against registered and unregistered contractors. The exemption prescribed in this subsection does not apply to a person who performs the activities of a contractor for the purpose of leasing or selling improved property he or she has owned for less than twelve months;

(12) Any person working on his or her own property, whether occupied by him or her or not, and any person working on his or her personal residence, whether owned by him or her or not but this exemption shall not apply to any person who performs the activities of a contractor on his or her own property for the purpose of selling, demolishing, or leasing the property;

(13) An owner who performs maintenance, repair, and alteration work in or upon his or her own properties, or who uses his or her own employees to do such work;

(14) A licensed architect or civil or professional engineer acting solely in his or her professional capacity, an electrician certified under the laws of the state of

Washington, or a plumber certified under the laws of the state of Washington or licensed by a political subdivision of the state of Washington while operating within the boundaries of such political subdivision. The exemption provided in this subsection is applicable only when the person certified is operating within the scope of his or her certification;

(15) Any person who engages in the activities herein regulated as an employee of a registered contractor with wages as his or her sole compensation or as an employee with wages as his or her sole compensation;

(16) Contractors on highway projects who have been prequalified as required by RCW 47.28.070, with the department of transportation to perform highway construction, reconstruction, or maintenance work;

(17) A mobile/manufactured home dealer or manufacturer who subcontracts the installation, set-up, or repair work to actively registered contractors. This exemption only applies to the installation, set-up, or repair of the mobile/manufactured homes that were manufactured or sold by the mobile/manufactured home dealer or manufacturer;

(18) An entity who holds a valid electrical contractor's license under chapter 19.28 RCW that employs a certified (~~journeyman~~) journey level electrician, a certified residential specialty electrician, or an electrical trainee meeting the requirements of chapter 19.28 RCW to perform plumbing work that is incidentally, directly, and immediately appropriate to the like-in-kind replacement of a household appliance or other small household utilization equipment that requires limited electric power and limited waste and/or water connections. An electrical trainee must be supervised by a certified electrician while performing plumbing work.

Sec. 14. RCW 18.106.010 and 2006 c 185 s 1 are each amended to read as follows:

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

(1) "Advisory board" means the state advisory board of plumbers.

(2) "Contractor" means any person, corporate or otherwise, who engages in, or offers or advertises to engage in, any work covered by the provisions of this chapter by way of trade or business, or any person, corporate or otherwise, who employs anyone, or offers or advertises to employ anyone, to engage in any work covered by the provisions of this chapter.

(3) "Department" means the department of labor and industries.

(4) "Director" means the director of department of labor and industries.

(5) "~~(Journeyman)~~ Journey level plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter.

(6) "Like-in-kind" means having similar characteristics such as plumbing size, type, and function, and being in the same location.

(7) "Medical gas piping" means oxygen, nitrous oxide, high pressure nitrogen, medical compressed air, and medical vacuum systems.

(8) "Medical gas piping installer" means a (~~journeyman~~) journey level plumber who has been issued a medical gas piping installer endorsement.

(9) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems, and medical gas piping systems within a building. Installation in a water system of water

softening or water treatment equipment is not within the meaning of plumbing as used in this chapter.

(10) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to:

(a) Installation, maintenance, and repair of the plumbing of single-family dwellings, duplexes, and apartment buildings that do not exceed three stories;

(b) Maintenance and repair of backflow prevention assemblies; or

(c) A domestic water pumping system consisting of the installation, maintenance, and repair of the pressurization, treatment, and filtration components of a domestic water system consisting of: One or more pumps; pressure, storage, and other tanks; filtration and treatment equipment; if appropriate, a pitless adapter; along with valves, transducers, and other plumbing components that:

(i) Are used to acquire, treat, store, or move water suitable for either drinking or other domestic purposes, including irrigation, to: (A) A single-family dwelling, duplex, or other similar place of residence; (B) a public water system, as defined in RCW 70.119.020 and as limited under RCW 70.119.040; or (C) a farm owned and operated by a person whose primary residence is located within thirty miles of any part of the farm;

(ii) Are located within the interior space, including but not limited to an attic, basement, crawl space, or garage, of a residential structure, which space is separated from the living area of the residence by a lockable entrance and fixed walls, ceiling, or floor;

(iii) If located within the interior space of a residential structure, are connected to a plumbing distribution system supplied and installed into the interior space by either: (A) A person who, pursuant to RCW 18.106.070 or 18.106.090, possesses a valid temporary permit or certificate of competency as a ((journeyman)) journey level plumber, specialty plumber, or trainee, as defined in this chapter; or (B) a person exempt from the requirement to obtain a certified plumber to do such plumbing work under RCW 18.106.150.

Sec. 15. RCW 18.106.020 and 2009 c 36 s 2 are each amended to read as follows:

(1) No person may engage in or offer to engage in the trade of plumbing without having a ((journeyman)) journey level certificate, specialty certificate, temporary permit, or trainee certificate and photo identification in his or her possession. The department may establish by rule a requirement that the person also wear and visibly display his or her certificate or permit. A trainee must be supervised by a person who has a ((journeyman)) journey level certificate, specialty certificate, or temporary permit, as specified in RCW 18.106.070. No contractor may employ a person to engage in or offer to engage in the trade of plumbing unless the person employed has a ((journeyman)) journey level certificate, specialty certificate, temporary permit, or trainee certificate. This section does not apply to a contractor who is contracting for work on his or her own residence. Until July 1, 2007, the department shall issue a written warning to any specialty plumber defined by RCW 18.106.010(10)(c) not having a valid plumber certification. The warning will state that the individual must apply for a plumber training certificate or be qualified for and apply for plumber certification under the requirements in RCW 18.106.040 within thirty calendar days of the warning. Only one warning will be issued to any individual. If the

individual fails to comply with this section, the department shall issue a penalty or penalties as authorized by this chapter.

(2) No person may engage in or offer to engage in medical gas piping installation without having a certificate of competency as a ((~~journeyman~~)) journey level plumber and a medical gas piping installer endorsement and photo identification in his or her possession. The department may establish by rule a requirement that the person also wear and visibly display his or her endorsement. A trainee may engage in medical gas piping installation if he or she has a training certificate and is supervised by a person with a medical gas piping installer endorsement. No contractor may employ a person to engage in or offer to engage in medical gas piping installation unless the person employed has a certificate of competency as a ((~~journeyman~~)) journey level plumber and a medical gas piping installer endorsement.

(3) No contractor may advertise, offer to do work, submit a bid, or perform any work under this chapter without being registered as a contractor under chapter 18.27 RCW.

(4) Violation of this section is an infraction. Each day in which a person engages in the trade of plumbing in violation of this section or employs a person in violation of this section is a separate infraction. Each worksite at which a person engages in the trade of plumbing in violation of this section or at which a person is employed in violation of this section is a separate infraction.

(5) Notices of infractions for violations of this section may be issued to:

- (a) The person engaging in or offering to engage in the trade of plumbing in violation of this section;
- (b) The contractor in violation of this section; and
- (c) The contractor's employee who authorized the work assignment of the person employed in violation of this section.

Sec. 16. RCW 18.106.030 and 2011 c 336 s 504 are each amended to read as follows:

Any person desiring to be issued a certificate of competency as provided in this chapter shall deliver evidence in a form prescribed by the department affirming that said person has had sufficient experience in as well as demonstrated general competency in the trade of plumbing or specialty plumbing so as to qualify him or her to make an application for a certificate of competency as a ((~~journeyman~~)) journey level plumber or specialty plumber. Completion of a course of study in the plumbing trade in the armed services of the United States or at a school accredited by the workforce training and education coordinating board shall constitute sufficient evidence of experience and competency to enable such person to make application for a certificate of competency.

Any person desiring to be issued a medical gas piping installer endorsement shall deliver evidence in a form prescribed by the department affirming that the person has met the requirements established by the department for a medical gas piping installer endorsement.

In addition to supplying the evidence as prescribed in this section, each applicant for a certificate of competency shall submit an application for such certificate on such form and in such manner as shall be prescribed by the director of the department.

Sec. 17. RCW 18.106.040 and 2006 c 185 s 2 are each amended to read as follows:

(1) Upon receipt of the application and evidence set forth in RCW 18.106.030, the director shall review the same and make a determination as to whether the applicant is eligible to take an examination for the certificate of competency. To be eligible to take the examination:

(a) Each applicant for a (~~journeyman~~) journey level plumber's certificate of competency shall furnish written evidence that he or she has completed a course of study in the plumbing trade in the armed services of the United States or at a school licensed by the workforce training and education coordinating board, or has had four or more years of experience under the direct supervision of a licensed (~~journeyman~~) journey level plumber.

(b) Each applicant for a specialty plumber's certificate of competency under RCW 18.106.010(10)(a) shall furnish written evidence that he or she has completed a course of study in the plumbing trade in the armed services of the United States or at a school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, or that he or she has had at least three years practical experience in the specialty.

(c) Each applicant for a specialty plumber's certificate of competency under RCW 18.106.010(10) (b) or (c) shall furnish written evidence that he or she is eligible to take the examination. These eligibility requirements for the specialty plumbers defined by RCW 18.106.010(10)(c) shall be one year of practical experience working on pumping systems not exceeding one hundred gallons per minute, and two years of practical experience working on pumping systems exceeding one hundred gallons per minute, or equivalent as determined by rule by the department in consultation with the advisory board, and that experience may be obtained at the same time the individual is meeting the experience required by RCW 19.28.191. The eligibility requirements for other specialty plumbers shall be established by rule by the director pursuant to subsection (2)(b) of this section.

(2)(a) The director shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the director shall consult with the state advisory board of plumbers as established in RCW 18.106.110.

(b) The director shall establish reasonable criteria by rule for determining an applicant's eligibility to take an examination for the certificate of competency for specialty plumbers under subsection (1)(c) of this section. In establishing the criteria, the director shall consult with the state advisory board of plumbers as established in RCW 18.106.110. These rules must take effect by December 31, 2006.

(3) Upon determination that the applicant is eligible to take the examination, the director shall so notify the applicant, indicating the time and place for taking the same.

(4) No other requirement for eligibility may be imposed.

Sec. 18. RCW 18.106.050 and 2006 c 185 s 3 are each amended to read as follows:

(1) The department, with the advice of the advisory board, shall prepare a written examination to be administered to applicants for certificates of

competency for (~~(journeyman)~~) journey level plumber and specialty plumber. The examination shall be constructed to determine:

(a) Whether the applicant possesses varied general knowledge of the technical information and practical procedures that are identified with the trade of (~~(journeyman)~~) journey level plumber or specialty plumber; and

(b) Whether the applicant is familiar with the applicable plumbing codes and the administrative rules of the department pertaining to plumbing and plumbers.

(2) The department, with the consent of the advisory board, may enter into a contract with a nationally recognized testing agency to develop, administer, and score any examinations required by this chapter. All applicants shall, before taking an examination, pay the required examination fee. The department shall set the examination fee by contract with a nationally recognized testing agency. The fee shall cover but not exceed the costs of preparing and administering the examination and the materials necessary to conduct the practical elements of the examination. The department shall approve training courses and set the fees for training courses for examinations provided by this chapter.

(3) An examination to determine the competency of an applicant for a domestic water pumping system specialty plumbing certificate as defined by RCW 18.106.010(10)(c) must be established by the department in consultation with the advisory board by December 31, 2006. The department may include an examination for appropriate electrical safety and technical requirements as required by RCW 19.28.191 with the examination required by this section. The department, in consultation with the advisory board, may accept the certification by a professional or trade association or other acceptable entity as meeting the examination requirement of this section. Individuals who can provide evidence to the department prior to January 1, 2007, that they have been employed in the pump and irrigation business as defined by RCW 18.106.010(10)(c) for not less than four thousand hours in the most recent four calendar years shall be issued the appropriate certificate by the department upon receiving such documentation and applicable fees. The department shall establish a single document for those who have received both the plumbing specialty certification defined by this subsection and have also met the certification requirements for a pump and irrigation or domestic pump specialty electrician, showing that the individual has received both certifications.

(4) The department shall certify the results of the examinations provided by this chapter, and shall notify the applicant in writing whether he or she has passed or failed. Any applicant who has failed the examination may retake the examination, upon the terms and after a period of time that the director shall set by rule. The director may not limit the number of times that a person may take the examination.

Sec. 19. RCW 18.106.070 and 2009 c 36 s 3 are each amended to read as follows:

(1) The department shall issue a certificate of competency to all applicants who have passed the examination and have paid the fee for the certificate. The certificate may include a photograph of the holder. The certificate shall bear the date of issuance, and shall expire on the birthdate of the holder immediately following the date of issuance. The certificate shall be renewable every other year, upon application, on or before the birthdate of the holder, except for

specialty plumbers defined by RCW 18.106.010(10)(c) who also have an electrical certification issued jointly as provided by RCW 18.106.050(3) in which case their certificate shall be renewable every three years on or before the birthdate of the holder. The department shall renew a certificate of competency if the applicant: (a) Pays the renewal fee assessed by the department; and (b) during the past two years has completed sixteen hours of continuing education approved by the department with the advice of the advisory board, including four hours related to electrical safety. For holders of the specialty plumber certificate under RCW 18.106.010(10)(c), the continuing education may comprise both electrical and plumbing education with a minimum of twelve of the required twenty-four hours of continuing education in plumbing. If a person fails to renew the certificate by the renewal date, he or she must pay a doubled fee. If the person does not renew the certificate within ninety days of the renewal date, he or she must retake the examination and pay the examination fee.

The ((journeyman)) journey level plumber and specialty plumber certificates of competency, the medical gas piping installer endorsement, and the temporary permit provided for in this chapter grant the holder the right to engage in the work of plumbing as a ((journeyman)) journey level plumber, specialty plumber, or medical gas piping installer, in accordance with their provisions throughout the state and within any of its political subdivisions on any job or any employment without additional proof of competency or any other license or permit or fee to engage in the work. This section does not preclude employees from adhering to a union security clause in any employment where such a requirement exists.

(2) A person who is indentured in an apprenticeship program approved under chapter 49.04 RCW for the plumbing construction trade or who is learning the plumbing construction trade may work in the plumbing construction trade if supervised by a certified ((journeyman)) journey level plumber or a certified specialty plumber in that plumber's specialty. All apprentices and individuals learning the plumbing construction trade shall obtain a plumbing training certificate from the department. The certificate shall authorize the holder to learn the plumbing construction trade while under the direct supervision of a ((journeyman)) journey level plumber or a specialty plumber working in his or her specialty. The certificate may include a photograph of the holder. The holder of the plumbing training certificate shall renew the certificate annually. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the plumbing construction industry for the previous year and the number of hours worked for each employer. An annual fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter.

(3) Any person who has been issued a plumbing training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a ((journeyman)) journey level plumber or an appropriate specialty plumber who has an applicable certificate of competency issued under this chapter. Either a ((journeyman)) journey level plumber or an appropriate specialty plumber shall

be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter. The ratio of noncertified individuals to certified ((journeymen)) journey level or specialty plumbers working on a job site shall be: (a) Not more than two noncertified plumbers working on any one job site for every certified specialty plumber or ((journeyman)) journey level plumber working as a specialty plumber; and (b) not more than one noncertified plumber working on any one job site for every certified ((journeyman)) journey level plumber working as a ((journeyman)) journey level plumber.

An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in a technical school program in the plumbing construction trade in a school approved by the workforce training and education coordinating board, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(4) An individual who has a current training certificate and who has successfully completed or is currently enrolled in a medical gas piping installer training course approved by the department may work on medical gas piping systems if the individual is under the direct supervision of a certified medical gas piping installer who holds a medical gas piping installer endorsement one hundred percent of a working day on a one-to-one ratio.

(5) The training to become a certified plumber must include not less than sixteen hours of classroom training established by the director with the advice of the advisory board. The classroom training must include, but not be limited to, electrical wiring safety, grounding, bonding, and other related items plumbers need to know to work under RCW 19.28.091.

(6) All persons who are certified plumbers before January 1, 2003, are deemed to have received the classroom training required in subsection (5) of this section.

Sec. 20. RCW 18.106.075 and 1997 c 326 s 1 are each amended to read as follows:

The department shall adopt requirements that qualify a ((journeyman)) journey level plumber to be issued a medical gas piping installer endorsement.

Sec. 21. RCW 18.106.080 and 2011 c 336 s 505 are each amended to read as follows:

No examination shall be required of any applicant for a certificate of competency who, on July 16, 1973, was engaged in a bona fide business or trade of plumbing, or on said date held a valid ((journeyman)) journey level plumber's license issued by a political subdivision of the state of Washington and whose license is valid at the time of making his or her application for said certificate. Applicants qualifying under this section shall be issued a certificate by the department upon making an application as provided in RCW 18.106.030 and paying the fee required under RCW 18.106.050: PROVIDED, That no applicant under this section shall be required to furnish such evidence as required by RCW 18.106.030.

Sec. 22. RCW 18.106.090 and 2009 c 36 s 4 are each amended to read as follows:

The department is authorized to grant and issue temporary permits in lieu of certificates of competency whenever a plumber coming into the state of Washington from another state requests the department for a temporary permit to engage in the trade of plumbing as a (~~journeyman~~) journey level plumber or as a specialty plumber during the period of time between filing of an application for a certificate as provided in RCW 18.106.030 as now or hereafter amended and taking the examination provided for in RCW 18.106.050. The temporary permit may include a photograph of the plumber. No temporary permit shall be issued to:

- (1) Any person who has failed to pass the examination for a certificate of competency;
- (2) Any applicant under this section who has not furnished the department with such evidence required under RCW 18.106.030;
- (3) (~~(Fe)~~) Any (~~(Any)~~) apprentice plumber.

Sec. 23. RCW 18.106.100 and 2011 c 301 s 4 are each amended to read as follows:

(1) The department may revoke or suspend a certificate of competency for any of the following reasons:

- (a) The certificate was obtained through error or fraud;
- (b) The certificate holder is judged to be incompetent to carry on the trade of plumbing as a (~~journeyman~~) journey level plumber or specialty plumber;
- (c) The certificate holder has violated any provision of this chapter or any rule adopted under this chapter.

(2) Before a certificate of competency is revoked or suspended, the department shall send written notice using a method by which the mailing can be tracked or the delivery can be confirmed to the certificate holder's last known address. The notice must list the allegations against the certificate holder and give him or her the opportunity to request a hearing before the advisory board. At the hearing, the department and the certificate holder have opportunity to produce witnesses and give testimony. The hearing must be conducted in accordance with chapter 34.05 RCW. The board shall render its decision based upon the testimony and evidence presented and shall notify the parties immediately upon reaching its decision. A majority of the board is necessary to render a decision.

(3) The department may deny renewal of a certificate of competency issued under this chapter if the applicant owes outstanding penalties for a final judgment under this chapter. The department shall notify the applicant of the denial using a method by which the mailing can be tracked or the delivery can be confirmed to the address on the application. The applicant may appeal the denial within twenty days by filing a notice of appeal with the department accompanied by a certified check for two hundred dollars which shall be returned to the applicant if the decision of the department is not upheld by the hearings officer. The office of administrative hearings shall conduct the hearing under chapter 34.05 RCW. If the hearings officer sustains the decision of the department, the two hundred dollars must be applied to the cost of the hearing.

Sec. 24. RCW 18.106.110 and 2011 1st sp.s. c 21 s 21 are each amended to read as follows:

(1) There is created a state advisory board of plumbers, to be composed of seven members appointed by the director. Two members shall be ((~~journeyman~~)) journey level plumbers, one member shall be a specialty plumber, three members shall be persons conducting a plumbing business, at least one of which shall be primarily engaged in a specialty plumbing business, and one member from the general public who is familiar with the business and trade of plumbing.

(2) The term of one ((~~journeyman~~)) journey level plumber expires July 1, 1995; the term of the second ((~~journeyman~~)) journey level plumber expires July 1, 2000; the term of the specialty plumber expires July 1, 2008; the term of one person conducting a plumbing business expires July 1, 1996; the term of the second person conducting a plumbing business expires July 1, 2000; the term of the third person conducting a plumbing business expires July 1, 2007; and the term of the public member expires July 1, 1997. Thereafter, upon the expiration of said terms, the director shall appoint a new member to serve for a period of three years. However, to ensure that the board can continue to act, a member whose term expires shall continue to serve until his or her replacement is appointed. In the case of any vacancy on the board for any reason, the director shall appoint a new member to serve out the term of the person whose position has become vacant.

(3) The advisory board shall carry out all the functions and duties enumerated in this chapter, as well as generally advise the department on all matters relative to this chapter.

(4) Each member of the advisory board shall receive travel expenses in accordance with the provisions of RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day in which such member is actually engaged in attendance upon the meetings of the advisory board.

Sec. 25. RCW 18.106.150 and 2003 c 399 s 402 are each amended to read as follows:

(1) Nothing in this chapter shall be construed to require that a person obtain a license or a certified plumber in order to do plumbing work at his or her residence or farm or place of business or on other property owned by him or her.

(2) A current certificate of competency or apprentice permit is not required for:

(a) Persons performing plumbing work on a farm; or

(b) Certified ((~~journeyman~~)) journey level electricians, certified residential specialty electricians, or electrical trainees working for an electrical contractor and performing exempt work under RCW 18.27.090(18).

(3) Nothing in this chapter shall be intended to derogate from or dispense with the requirements of any valid plumbing code enacted by a political subdivision of the state, except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the trade of plumbing.

(4) This chapter shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees.

(5) Nothing in this chapter shall be construed to apply to any farm, business, industrial plant, or corporation doing plumbing work on premises it owns or operates.

(6) Nothing in this chapter shall be construed to restrict the right of any household to assist or receive assistance from a friend, neighbor, relative, or other person when none of the individuals doing such plumbing hold themselves out as engaged in the trade or business of plumbing.

Sec. 26. RCW 18.106.155 and 1977 ex.s. c 149 s 11 are each amended to read as follows:

The director may, upon payment of the appropriate fees, grant a certificate of competency without examination to any applicant who is a registered (~~(journeyman)~~) journey level plumber or specialty plumber in any other state whose requirements for registration are at least substantially equivalent to the requirements of this state, and which extends the same privileges of reciprocity to (~~(journeymen)~~) journey level plumbers or specialty plumbers registered in this state.

Sec. 27. RCW 19.28.006 and 2003 c 399 s 101 are each amended to read as follows:

The definitions in this section apply throughout this subchapter.

(1) "Administrator" means a person designated by an electrical contractor to supervise electrical work and electricians in accordance with the rules adopted under this chapter.

(2) "Basic electrical work" means the work classified in (a) and (b) of this subsection as class A and class B basic electrical work:

(a) "Class A basic electrical work" means the like-in-kind replacement of a: Contactor, relay, timer, starter, circuit board, or similar control component; household appliance; circuit breaker; fuse; residential luminaire; lamp; snap switch; dimmer; receptacle outlet; thermostat; heating element; luminaire ballast with an exact same ballast; ten horsepower or smaller motor; or wiring, appliances, devices, or equipment as specified by rule.

(b) "Class B basic electrical work" means work other than class A basic electrical work that requires minimal electrical circuit modifications and has limited exposure hazards. Class B basic electrical work includes the following:

(i) Extension of not more than one branch electrical circuit limited to one hundred twenty volts and twenty amps each where:

(A) No cover inspection is necessary; and

(B) The extension does not supply more than two outlets;

(ii) Like-in-kind replacement of a single luminaire not exceeding two hundred seventy-seven volts and twenty amps;

(iii) Like-in-kind replacement of a motor larger than ten horsepower;

(iv) The following low voltage systems:

(A) Repair and replacement of devices not exceeding one hundred volt-amperes in Class 2, Class 3, or power limited low voltage systems in one and two-family dwellings;

(B) Repair and replacement of the following devices not exceeding one hundred volt-amperes in Class 2, Class 3, or power limited low voltage systems in other buildings, provided the equipment is not for fire alarm or nurse call systems and is not located in an area classified as hazardous by the national electrical code; or

(v) Wiring, appliances, devices, or equipment as specified by rule.

(3) "Board" means the electrical board under RCW 19.28.311.

(4) "Chapter" or "subchapter" means the subchapter, if no chapter number is referenced.

(5) "Department" means the department of labor and industries.

(6) "Director" means the director of the department or the director's designee.

(7) "Electrical construction trade" includes, but is not limited to, installing or maintaining electrical wires and equipment that are used for light, heat, or power and installing and maintaining remote control, signaling, power limited, or communication circuits or systems.

(8) "Electrical contractor" means a person, firm, partnership, corporation, or other entity that offers to undertake, undertakes, submits a bid for, or does the work of installing or maintaining wires or equipment that convey electrical current.

(9) "Equipment" means any equipment or apparatus that directly uses, conducts, insulates, or is operated by electricity but does not mean: Plug-in appliances; or plug-in equipment as determined by the department by rule.

(10) "Industrial control panel" means a factory-wired or user-wired assembly of industrial control equipment such as motor controllers, switches, relays, power supplies, computers, cathode ray tubes, transducers, and auxiliary devices. The panel may include disconnect means and motor branch circuit protective devices.

(11) "~~((Journeyman))~~ Journey level electrician" means a person who has been issued a ~~((journeyman))~~ journey level electrician certificate of competency by the department.

(12) "Like-in-kind" means having similar characteristics such as voltage requirements, current draw, and function, and being in the same location.

(13) "Master electrician" means either a master ~~((journeyman))~~ journey level electrician or master specialty electrician.

(14) "Master ~~((journeyman))~~ journey level electrician" means a person who has been issued a master ~~((journeyman))~~ journey level electrician certificate of competency by the department and who may be designated by an electrical contractor to supervise electrical work and electricians in accordance with rules adopted under this chapter.

(15) "Master specialty electrician" means a person who has been issued a specialty electrician certificate of competency by the department and who may be designated by an electrical contractor to supervise electrical work and electricians in accordance with rules adopted under this chapter.

(16) "Specialty electrician" means a person who has been issued a specialty electrician certificate of competency by the department.

Sec. 28. RCW 19.28.041 and 2006 c 224 s 1 and 2006 c 185 s 5 are each reenacted and amended to read as follows:

(1) It is unlawful for any person, firm, partnership, corporation, or other entity to advertise, offer to do work, submit a bid, engage in, conduct, or carry on the business of installing or maintaining wires or equipment to convey electric current, or installing or maintaining equipment to be operated by electric current as it pertains to the electrical industry, without having an unrevoked, unsuspended, and unexpired electrical contractor license, issued by the department in accordance with this chapter. All electrical contractor licenses expire twenty-four calendar months following the day of their issue. The

department may issue an electrical contractor((s)) license for a period of less than twenty-four months only for the purpose of equalizing the number of electrical contractor licenses that expire each month. Application for an electrical contractor license shall be made in writing to the department, accompanied by the required fee. The application shall state:

(a) The name and address of the applicant; in case of firms or partnerships, the names of the individuals composing the firm or partnership; in case of corporations, the names of the managing officials thereof;

(b) The location of the place of business of the applicant and the name under which the business is conducted;

(c) Employer social security number;

(d) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law;

(e) Employment security department number;

(f) State excise tax registration number;

(g) Unified business identifier (UBI) account number may be substituted for the information required by (d) of this subsection if the applicant will not employ employees in Washington, and by (e) and (f) of this subsection; and

(h) Whether a general or specialty electrical contractor license is sought and, if the latter, the type of specialty. Electrical contractor specialties include, but are not limited to: Residential, pump and irrigation, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, appliance repair, and a combination specialty. A general electrical contractor license shall grant to the holder the right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electric current, and installing or maintaining equipment, or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current, in the state of Washington. A specialty electrical contractor license shall grant to the holder a limited right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electrical current, and installing or maintaining equipment; or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current in the state of Washington as expressly allowed by the license.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(d) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3) The application for an electrical contractor license shall be accompanied by a bond in the sum of four thousand dollars with the state of Washington named as obligee in the bond, with good and sufficient surety, to be approved by the department. The bond shall at all times be kept in full force and effect, and any cancellation or revocation thereof, or withdrawal of the surety therefrom, suspends the license issued to the principal until a new bond has been filed and approved as provided in this section. Upon approval of a bond, the department shall on the next business day deposit the fee accompanying the application in the electrical license fund and shall file the bond in the office. The department shall upon request furnish to any person, firm, partnership, corporation, or other entity a certified copy of the bond upon the payment of a fee that the department shall set by rule. The fee shall cover but not exceed the cost of furnishing the certified copy. The bond shall be conditioned that in any installation or maintenance of wires or equipment to convey electrical current, and equipment to be operated by electrical current, the principal will comply with the provisions of this chapter and with any electrical ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(3) that is in effect at the time of entering into a contract. The bond shall be conditioned further that the principal will pay for all labor, including employee benefits, and material furnished or used upon the work, taxes and contributions to the state of Washington, and all damages that may be sustained by any person, firm, partnership, corporation, or other entity due to a failure of the principal to make the installation or maintenance in accordance with this chapter or any applicable ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(3). In lieu of the surety bond required by this section, the license applicant may file with the department a cash deposit or other negotiable security acceptable to the department. If the license applicant has filed a cash deposit, the department shall deposit the funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from the account.

(4) The department shall issue general or specialty electrical contractor licenses to applicants meeting all of the requirements of this chapter. The provisions of this chapter relating to the licensing of any person, firm, partnership, corporation, or other entity including the requirement of a bond with the state of Washington named as obligee therein and the collection of a fee therefor, are exclusive, and no political subdivision of the state of Washington may require or issue any licenses or bonds or charge any fee for the same or a similar purpose. No person, firm, partnership, corporation, or other entity holding more than one specialty contractor license under this chapter may be required to pay an annual fee for more than one such license or to post more than one four thousand dollar bond, equivalent cash deposit, or other negotiable security.

(5) To obtain a general or specialty electrical contractor license, the applicant must designate an individual who currently possesses a valid master (~~journeyman~~) journey level electrician's certificate of competency, master specialty electrician's certificate of competency in the specialty for which application has been made, or administrator's certificate as a general electrical contractor administrator or as a specialty electrical contractor administrator in the specialty for which application has been made.

(6) Administrator certificate specialties include, but are not limited to: Residential, pump and irrigation or domestic pump, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, appliance repair, and combination specialty. To obtain an administrator's certificate, an individual must pass an examination as set forth in RCW 19.28.051 unless the applicant was a licensed electrical contractor at any time during 1974. Applicants who were electrical contractors licensed by the state of Washington at any time during 1974 are entitled to receive a general electrical contractor administrator's certificate without examination if the applicants apply prior to January 1, 1984. The board of electrical examiners shall certify to the department the names of all persons who are entitled to either a general or specialty electrical contractor administrator's certificate.

(7) For a contractor doing domestic water pumping system work as defined by RCW 18.106.010(10)(c), the department shall consider the requirements of subsections (1)(a) through (h), (2), and (3) of this section to have been met to be a pump and irrigation or domestic pump licensed electrical contractor if the contractor has met the contractor registration requirements of chapter 18.27 RCW. The department shall establish a single registration/licensing document for those who qualify for both general contractor registration as defined in chapter 18.27 RCW and a pump and irrigation or domestic pump electrical contractor license as defined by this chapter.

Sec. 29. RCW 19.28.161 and 2010 c 33 s 1 are each amended to read as follows:

(1) No person may engage in the electrical construction trade without having a valid master (~~(journeyman)~~ journey level electrician certificate of competency, (~~(journeyman)~~ journey level electrician certificate of competency, master specialty electrician certificate of competency, or specialty electrician certificate of competency issued by the department in accordance with this chapter. Electrician certificate of competency specialties include, but are not limited to: Residential, pump and irrigation, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, and appliance repair. Until July 1, 2007, the department of labor and industries shall issue a written warning to any specialty pump and irrigation or domestic pump electrician not having a valid electrician certification. The warning will state that the individual must apply for an electrical training certificate or be qualified for and apply for electrician certification under the requirements in RCW 19.28.191(1)(g) within thirty calendar days of the warning. Only one warning will be issued to any individual. If the individual fails to comply with this section, the department shall issue a penalty as defined in RCW 19.28.271 to the individual.

(2) A person who is indentured in an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade or who is learning the electrical construction trade may work in the electrical construction trade if supervised by a certified master (~~(journeyman)~~ journey level electrician, (~~(journeyman)~~ journey level electrician, master specialty electrician in that electrician's specialty, or specialty electrician in that electrician's specialty. All apprentices and individuals learning the electrical construction trade shall obtain an electrical training certificate from the department. The certificate shall authorize the holder to learn the electrical construction trade while under the

direct supervision of a master (~~(journeyman)~~) journey level electrician, (~~(journeyman)~~) journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. The certificate may include a photograph of the holder. The holder of the electrical training certificate shall renew the certificate biennially. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the electrical construction industry for the previous biennial period and the number of hours worked for each employer. The holder shall also provide proof of sixteen hours of: Approved classroom training covering this chapter, the national electrical code, or electrical theory; or equivalent classroom training taken as part of an approved apprenticeship program under chapter 49.04 RCW or an approved electrical training program under RCW 19.28.191(1)(h). The number of hours of approved classroom training required for certificate renewal shall increase as follows: (a) Beginning on July 1, 2011, the holder of an electrical training certificate shall provide the department with proof of thirty-two hours of approved classroom training; and (b) beginning on July 1, 2013, the holder of an electrical training certificate shall provide the department with proof of forty-eight hours of approved classroom training. At the request of the chairs of the house of representatives commerce and labor committee and the senate labor, commerce and consumer protection committee, or their successor committees, the department of labor and industries shall provide information on the implementation of the new classroom training requirements for electrical trainees to both committees by December 1, 2012. A biennial fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter. Apprentices and individuals learning the electrical construction trade shall have their electrical training certificates in their possession at all times that they are performing electrical work. They shall show their certificates to an authorized representative of the department at the representative's request.

(3) Any person who has been issued an electrical training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a certified master (~~(journeyman)~~) journey level electrician, (~~(journeyman)~~) journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Either a certified master (~~(journeyman)~~) journey level electrician, (~~(journeyman)~~) journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty shall be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter.

(4) The ratio of noncertified individuals to certified master (~~(journeymen)~~) journey level electricians, (~~(journeymen)~~) journey level electricians, master specialty electricians, or specialty electricians on any one job site is as follows:

(a) When working as a specialty electrician, not more than two noncertified individuals for every certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master (~~(journeyman)~~) journey level electrician, or (~~(journeyman)~~) journey level

electrician, except that the ratio requirements are one certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master ((~~journeyman~~)) journey level electrician, or ((~~journeyman~~)) journey level electrician working as a specialty electrician to no more than four students enrolled in and working as part of an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited trade or technical schools licensed by the workforce training and education coordinating board under chapter 28C.10 RCW. In meeting the ratio requirements for students enrolled in an electrical construction program at a trade school, a trade school may receive input and advice from the electrical board; and

(b) When working as a ((~~journeyman~~)) journey level electrician, not more than one noncertified individual for every certified master ((~~journeyman~~)) journey level electrician or ((~~journeyman~~)) journey level electrician, except that the ratio requirements shall be one certified master ((~~journeyman~~)) journey level electrician or ((~~journeyman~~)) journey level electrician to no more than four students enrolled in and working as part of an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited trade or technical schools licensed by the workforce training and education coordinating board under chapter 28C.10 RCW. In meeting the ratio requirements for students enrolled in an electrical construction program at a trade school, a trade school may receive input and advice from the electrical board.

An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(5) For the residential (as specified in WAC 296-46B-920(2)(a)), pump and irrigation (as specified in WAC 296-46B-920(2)(b)), sign (as specified in WAC 296-46B-920(2)(d)), limited energy (as specified in WAC 296-46B-920(2)(e)), nonresidential maintenance (as specified in WAC 296-46B-920(2)(g)), restricted nonresidential maintenance as determined by the department in rule, or other new nonresidential specialties, not including appliance repair, as determined by the department in rule, either a master ((~~journeyman~~)) journey level electrician, ((~~journeyman~~)) journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty must be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day. Other specialties must meet the requirements specified in RCW 19.28.191(1)(g)(ii). When the ratio of certified electricians to noncertified individuals on a job site is one certified electrician to three or four noncertified individuals, the certified electrician must:

(a) Directly supervise and instruct the noncertified individuals and the certified electrician may not directly make or engage in an electrical installation; and

(b) Be on the same job site as the noncertified individual for a minimum of one hundred percent of each working day.

(6) The electrical contractor shall accurately verify and attest to the electrical trainee hours worked by electrical trainees on behalf of the electrical contractor.

Sec. 30. RCW 19.28.191 and 2006 c 185 s 7 are each amended to read as follows:

(1) Upon receipt of the application, the department shall review the application and determine whether the applicant is eligible to take an examination for the master (~~(journeyman)~~) journey level electrician, (~~(journeyman)~~) journey level electrician, master specialty electrician, or specialty electrician certificate of competency.

(a) Before July 1, 2005, an applicant who possesses a valid (~~(journeyman)~~) journey level electrician certificate of competency in effect for the previous four years and a valid general administrator's certificate may apply for a master (~~(journeyman)~~) journey level electrician certificate of competency without examination.

(b) Before July 1, 2005, an applicant who possesses a valid specialty electrician certificate of competency, in the specialty applied for, for the previous two years and a valid specialty administrator's certificate, in the specialty applied for, may apply for a master specialty electrician certificate of competency without examination.

(c) Before December 1, 2003, the following persons may obtain an equipment repair specialty electrician certificate of competency without examination:

(i) A person who has successfully completed an apprenticeship program approved under chapter 49.04 RCW for the machinist trade; and

(ii) A person who provides evidence in a form prescribed by the department affirming that: (A) He or she was employed as of April 1, 2003, by a factory-authorized equipment dealer or service company; and (B) he or she has worked in equipment repair for a minimum of four thousand hours.

(d) To be eligible to take the examination for a master (~~(journeyman)~~) journey level electrician certificate of competency, the applicant must have possessed a valid (~~(journeyman)~~) journey level electrician certificate of competency for four years.

(e) To be eligible to take the examination for a master specialty electrician certificate of competency, the applicant must have possessed a valid specialty electrician certificate of competency, in the specialty applied for, for two years.

(f) To be eligible to take the examination for a (~~(journeyman)~~) journey level certificate of competency, the applicant must have:

(i) Worked in the electrical construction trade for a minimum of eight thousand hours, of which four thousand hours shall be in industrial or commercial electrical installation under the supervision of a master (~~(journeyman)~~) journey level electrician or (~~(journeyman)~~) journey level electrician and not more than a total of four thousand hours in all specialties under the supervision of a master (~~(journeyman)~~) journey level electrician, (~~(journeyman)~~) journey level electrician, master specialty electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Specialty electricians with less than a four thousand hour work

experience requirement cannot credit the time required to obtain that specialty towards qualifying to become a ((journeyman)) journey level electrician; or

(ii) Successfully completed an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade.

(g) To be eligible to take the examination for a specialty electrician certificate of competency, the applicant must have:

(i) Worked in the residential (as specified in WAC 296-46B-920(2)(a)), pump and irrigation (as specified in WAC 296-46B-920(2)(b)), sign (as specified in WAC 296-46B-920(2)(d)), limited energy (as specified in WAC 296-46B-920(2)(e)), nonresidential maintenance (as specified in WAC 296-46B-920(2)(g)), or other new nonresidential specialties as determined by the department in rule under the supervision of a master ((journeyman)) journey level electrician, ((journeyman)) journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty for a minimum of four thousand hours;

(ii) Worked in the appliance repair specialty as determined by the department in rule, restricted nonresidential maintenance as determined by the department in rule, the equipment repair specialty as determined by the department in rule, the pump and irrigation specialty other than as defined by (g)(i) of this subsection or domestic pump specialty as determined by the department in rule, or a specialty other than the designated specialties in (g)(i) of this subsection for a minimum of the initial ninety days, or longer if set by rule by the department. The restricted nonresidential maintenance specialty is limited to a maximum of 277 volts and 20 amperes for lighting branch circuits and/or a maximum of 250 volts and 60 amperes for other circuits, but excludes the replacement or repair of circuit breakers. The initial period must be spent under one hundred percent supervision of a master ((journeyman)) journey level electrician, ((journeyman)) journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. After this initial period, a person may take the specialty examination. If the person passes the examination, the person may work unsupervised for the balance of the minimum hours required for certification. A person may not be certified as a specialty electrician in the appliance repair specialty or in a specialty other than the designated specialties in (g)(i) of this subsection, however, until the person has worked a minimum of two thousand hours in that specialty, or longer if set by rule by the department;

(iii) Successfully completed an approved apprenticeship program under chapter 49.04 RCW for the applicant's specialty in the electrical construction trade; or

(iv) In meeting the training requirements for the pump and irrigation or domestic pump specialties, the individual shall be allowed to obtain the experience required by this section at the same time the individual is meeting the experience required by RCW 18.106.040(1)(c). After meeting the training requirements provided in this section, the individual may take the examination and upon passing the examination, meeting additional training requirements as may still be required for those seeking a pump and irrigation, or a domestic pump specialty certificate as defined by rule, and paying the applicable fees, the individual must be issued the appropriate certificate. The department may include an examination for specialty plumbing certificate defined in RCW

18.106.010(10)(c) with the examination required by this section. The department, by rule and in consultation with the electrical board, may establish additional equivalent ways to gain the experience requirements required by this subsection. Individuals who are able to provide evidence to the department, prior to January 1, 2007, that they have been employed as a pump installer in the pump and irrigation or domestic pump business by an appropriately licensed electrical contractor, registered general contractor defined by chapter 18.27 RCW, or appropriate general specialty contractor defined by chapter 18.27 RCW for not less than eight thousand hours in the most recent six calendar years shall be issued the appropriate certificate by the department upon receiving such documentation and applicable fees. The department shall establish a single document for those who have received both an electrical specialty certification as defined by this subsection and have also met the certification requirements for the specialty plumber as defined by RCW 18.106.010(10)(c), showing that the individual has received both certifications. No other experience or training requirements may be imposed.

(h) Any applicant for a ((journeyman)) journey level electrician certificate of competency who has successfully completed a two-year program in the electrical construction trade at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to two years of the technical or trade school program for two years of work experience under a master ((journeyman)) journey level electrician or ((journeyman)) journey level electrician. The applicant shall obtain the additional two years of work experience required in industrial or commercial electrical installation prior to the beginning, or after the completion, of the technical school program. Any applicant who has received training in the electrical construction trade in the armed service of the United States may be eligible to apply armed service work experience towards qualification to take the examination for the ((journeyman))journey level electrician certificate of competency.

(i) An applicant for a specialty electrician certificate of competency who, after January 1, 2000, has successfully completed a two-year program in the electrical construction trade at a public community or technical college, or a not-for-profit nationally accredited technical or trade school licensed by the workforce training and education coordinating board under chapter 28C.10 RCW, may substitute up to one year of the technical or trade school program for one year of work experience under a master ((journeyman)) journey level electrician, ((journeyman)) journey level electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Any applicant who has received training in the electrical construction trade in the armed services of the United States may be eligible to apply armed service work experience towards qualification to take the examination for an appropriate specialty electrician certificate of competency.

(j) The department must determine whether hours of training and experience in the armed services or school program are in the electrical construction trade and appropriate as a substitute for hours of work experience. The department must use the following criteria for evaluating the equivalence of classroom electrical training programs and work in the electrical construction trade:

(i) A two-year electrical training program must consist of three thousand or more hours.

(ii) In a two-year electrical training program, a minimum of two thousand four hundred hours of student/instructor contact time must be technical electrical instruction directly related to the scope of work of the electrical specialty. Student/instructor contact time includes lecture and in-school lab.

(iii) The department may not allow credit for a program that accepts more than one thousand hours transferred from another school's program.

(iv) Electrical specialty training school programs of less than two years will have all of the above student/instructor contact time hours proportionately reduced. Such programs may not apply to more than fifty percent of the work experience required to attain certification.

(v) Electrical training programs of less than two years may not be credited towards qualification for (~~journeyman~~) journey level electrician unless the training program is used to gain qualification for a four thousand hour electrical specialty.

(k) No other requirement for eligibility may be imposed.

(2) The department shall establish reasonable rules for the examinations to be given applicants for certificates of competency. In establishing the rules, the department shall consult with the board. Upon determination that the applicant is eligible to take the examination, the department shall so notify the applicant, indicating the time and place for taking the examination.

(3) No noncertified individual may work unsupervised more than one year beyond the date when the trainee would be eligible to test for a certificate of competency if working on a full-time basis after original application for the trainee certificate. For the purposes of this section, "full-time basis" means two thousand hours.

Sec. 31. RCW 19.28.201 and 2002 c 249 s 6 are each amended to read as follows:

The department, in coordination with the board, shall prepare an examination to be administered to applicants for master (~~journeyman~~) journey level electrician, (~~journeyman~~) journey level electrician, master specialty electrician, and specialty electrician certificates of competency.

The department, with the consent of the board, may enter into a contract with a professional testing agency to develop, administer, and score electrician certification examinations. The department may set the examination fee by contract with the professional testing agency.

The department must, at least four times annually, administer the examination to persons eligible to take it under RCW 19.28.191. The fee must cover, but not exceed, the costs of preparing and administering the examination.

The department must certify the results of the examination upon the terms and after such a period of time as the department, in cooperation with the board, deems necessary and proper.

(1)(a) The master electrician's certificates of competency examinations must include questions from the following categories to ensure proper safety and protection for the general public: (i) Safety; (ii) the state electrical code; and (iii) electrical theory.

(b) A person may take the master electrician examination as many times as necessary without limit. All applicants must, before taking the examination, pay the required examination fee to the agency administering the examination.

(2) The ((journeyman)) journey level electrician and specialty electrician examinations shall be constructed to determine:

(a) Whether the applicant possesses varied general knowledge of the technical information and practical procedures that are identified with the status of ((journeyman)) journey level electrician or specialty electrician; and

(b) Whether the applicant is sufficiently familiar with the applicable electrical codes and the rules of the department pertaining to electrical installations and electricians.

A person may take the examination as many times as necessary without limit. All applicants must, before taking the examination, pay the required examination fee to the agency administering the examination.

Sec. 32. RCW 19.28.205 and 2012 c 32 s 1 are each amended to read as follows:

(1) An applicant for a ((journeyman)) journey level certificate of competency under RCW 19.28.191(1)(f) or a specialty electrician certificate of competency under RCW 19.28.191(1)(g) must demonstrate to the satisfaction of the department completion of in-class education as follows:

(a) Twenty-four hours of in-class education if two thousand hours or more but less than four thousand hours of work are required for the certificate;

(b) Forty-eight hours of in-class education if four thousand or more but less than six thousand hours of work are required for the certificate;

(c) Seventy-two hours of in-class education if six thousand or more but less than eight thousand hours of work are required for the certificate;

(d) Ninety-six hours of in-class education if eight thousand or more hours of work are required for the certificate.

(2) For purposes of this section, "in-class education" means approved classroom training covering this chapter, the national electric code, or electrical theory; or equivalent classroom training taken as part of an approved apprenticeship program under chapter 49.04 RCW or an approved electrical training program under RCW 19.28.191(1)(h).

(3) Classroom training taken to qualify for trainee certificate renewal under RCW 19.28.161 qualifies as in-class education under this section.

Sec. 33. RCW 19.28.211 and 2012 c 32 s 3 are each amended to read as follows:

(1) The department shall issue a certificate of competency to all applicants who have passed the examination provided in RCW 19.28.201, met the in-class education requirements of RCW 19.28.205 if applicable, and who have complied with RCW 19.28.161 through 19.28.271 and the rules adopted under this chapter. The certificate may include a photograph of the holder. The certificate shall bear the date of issuance, and shall expire on the holder's birthday. The certificate shall be renewed every three years, upon application, on or before the holder's birthdate. A fee shall be assessed for each certificate and for each annual renewal.

(2) If the certificate holder demonstrates to the department that he or she has satisfactorily completed an annual eight-hour continuing education course, the

certificate may be renewed without examination by appropriate application unless the certificate has been revoked, suspended, or not renewed within ninety days after the expiration date. For pump and irrigation or domestic pump specialty electricians, the continuing education course may combine both electrical and plumbing education provided that there is a minimum of four hours of electrical training in the course.

(a) The contents and requirements for satisfactory completion of the continuing education course shall be determined by the director and approved by the board.

(b) The department shall accept proof of a certificate holder's satisfactory completion of a continuing education course offered in another state as meeting the requirements for maintaining a current Washington state certificate of competency if the department is satisfied the course is comparable in nature to that required in Washington state for maintaining a current certificate of competency.

(3) If the certificate is not renewed before the expiration date, the individual shall pay twice the usual fee. The department shall set the fees by rule for issuance and renewal of a certificate of competency. The fees shall cover but not exceed the costs of issuing the certificates and of administering and enforcing the electrician certification requirements of this chapter.

(4) The certificates of competency and temporary permits provided for in this chapter grant the holder the right to work in the electrical construction trade as a master electrician, ((journeyman)) journey level electrician, or specialty electrician in accordance with their provisions throughout the state and within any of its political subdivisions without additional proof of competency or any other license, permit, or fee to engage in such work.

Sec. 34. RCW 19.28.221 and 2001 c 211 s 15 are each amended to read as follows:

No examination shall be required of any applicant for a certificate of competency who, on July 16, 1973, was engaged in a bona fide business or trade as a ((journeyman)) journey level electrician in the state of Washington. Applicants qualifying under this section shall be issued a certificate by the department upon making an application as provided in RCW 19.28.181 and paying the fee required under RCW 19.28.201: PROVIDED, That no applicant under this section shall be required to furnish such evidence as required by RCW 19.28.181.

Sec. 35. RCW 19.28.231 and 2009 c 36 s 9 are each amended to read as follows:

The department is authorized to grant and issue temporary permits in lieu of certificates of competency whenever an electrician coming into the state of Washington from another state requests the department for a temporary permit to engage in the electrical construction trade as an electrician during the period of time between filing of an application for a certificate as provided in RCW 19.28.181 and the date the results of taking the examination provided for in RCW 19.28.201 are furnished to the applicant. The temporary permit may include a photograph of the holder. The department is authorized to enter into reciprocal agreements with other states providing for the acceptance of such states' ((journeyman)) journey level and specialty electrician certificate of

competency or its equivalent when such states requirements are equal to the standards set by this chapter. No temporary permit shall be issued to:

(1) Any person who has failed to pass the examination for a certificate of competency, except that any person who has failed the examination for competency under this section shall be entitled to continue to work under a temporary permit for ninety days if the person is enrolled in a (~~journeyman~~) journey level electrician refresher course and shows evidence to the department that he or she has not missed any classes. The person, after completing the (~~journeyman~~) journey level electrician refresher course, shall be eligible to retake the examination for competency at the next scheduled time.

(2) Any applicant under this section who has not furnished the department with such evidence required under RCW 19.28.181.

(3) (~~For~~) ~~Any~~ (~~Any~~) apprentice electrician.

Sec. 36. RCW 19.28.241 and 2002 c 249 s 8 are each amended to read as follows:

(1) The department may revoke any certificate of competency upon the following grounds:

(a) The certificate was obtained through error or fraud;

(b) The holder thereof is judged to be incompetent to work in the electrical construction trade as a (~~journeyman~~) journey level electrician or specialty electrician;

(c) The holder thereof has violated any of the provisions of RCW 19.28.161 through 19.28.271 or any rule adopted under this chapter; or

(d) The holder thereof has committed a serious violation of this chapter or any rule adopted under this chapter. A serious violation is a violation that presents imminent danger to the public.

(2) The department may deny an application for a certificate of competency for up to two years if the applicant's previous certificate of competency has been revoked.

(3) Before any certificate of competency shall be revoked, the holder shall be given written notice of the department's intention to do so, mailed by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing before the board. At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with chapter 34.05 RCW. The board shall render its decision based upon the testimony and evidence presented, and shall notify the parties immediately upon reaching its decision. A majority of the board shall be necessary to render a decision.

(4) The department shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 37. RCW 19.28.261 and 2007 c 218 s 83 are each amended to read as follows:

(1) Nothing in RCW 19.28.161 through 19.28.271 shall be construed to require that a person obtain a license or a certified electrician in order to do electrical work at his or her residence or farm or place of business or on other property owned by him or her unless the electrical work is on the construction of a new building intended for rent, sale, or lease. However, if the construction is of a new residential building with up to four units intended for rent, sale, or lease, the owner may receive an exemption from the requirement to obtain a license or use a certified electrician if he or she provides a signed affidavit to the department stating that he or she will be performing the work and will occupy one of the units as his or her principal residence. The owner shall apply to the department for this exemption and may only receive an exemption once every twenty-four months. It is intended that the owner receiving this exemption shall occupy the unit as his or her principal residence for twenty-four months after completion of the units.

(2) Nothing in RCW 19.28.161 through 19.28.271 shall be intended to derogate from or dispense with the requirements of any valid electrical code enacted by a city or town pursuant to RCW 19.28.010(3), except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the electrical construction trade.

(3) RCW 19.28.161 through 19.28.271 shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees.

(4) Nothing in RCW 19.28.161 through 19.28.271 shall be deemed to apply to the installation or maintenance of telephone, telegraph, radio, or television wires and equipment; nor to any electrical utility or its employees in the installation, repair, and maintenance of electrical wiring, circuits, and equipment by or for the utility, or comprising a part of its plants, lines, or systems.

(5) The licensing provisions of RCW 19.28.161 through 19.28.271 shall not apply to:

(a) Persons making electrical installations on their own property or to regularly employed employees working on the premises of their employer, unless the electrical work is on the construction of a new building intended for rent, sale, or lease;

(b) Employees of an employer while the employer is performing utility type work of the nature described in RCW 19.28.091 so long as such employees have registered in the state of Washington with or graduated from a state-approved outside lineworker apprenticeship course that is recognized by the department and that qualifies a person to perform such work;

(c) Any work exempted under RCW 19.28.091(6); and

(d) Certified plumbers, certified residential plumbers, or plumber trainees meeting the requirements of chapter 18.106 RCW and performing exempt work under RCW 19.28.091(8).

(6) Nothing in RCW 19.28.161 through 19.28.271 shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative, or other person when none of the individuals doing the

electrical installation hold themselves out as engaged in the trade or business of electrical installations.

(7) Nothing precludes any person who is exempt from the licensing requirements of this chapter under this section from obtaining a (~~journeyman~~) journey level or specialty certificate of competency if they otherwise meet the requirements of this chapter.

Sec. 38. RCW 20.01.030 and 2011 c 336 s 570 are each amended to read as follows:

This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW, except as to that portion of the activities of the association or federation that involve the handling or dealing in the agricultural products of nonmembers of the organization: PROVIDED, That the associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: PROVIDED FURTHER, That if the cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets the processed agricultural crops on behalf of the grower or its own behalf, the association or federation is subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: PROVIDED FURTHER, That none of the foregoing exemptions in this subsection apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW;

(2) Any person who sells exclusively his or her own agricultural products as the producer thereof;

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of the public livestock market's obligation. However, any such market operating as a livestock dealer or order buyer, or both, is subject to all provisions of this chapter except for the payment of the license fee required in RCW 20.01.040;

(4) Any retail merchant having a bona fide fixed or permanent place of business in this state, but only for the retail merchant's retail business conducted at such fixed or established place of business;

(5) Any person buying farm products for his or her own use or consumption;

(6) Any warehouse operator or grain dealer licensed under the state grain warehouse act, chapter 22.09 RCW, with respect to his or her handling of any agricultural product as defined under that chapter;

(7) Any (~~nurseryman~~) nursery dealer who is required to be licensed under the horticultural laws of the state with respect to his or her operations as such licensee;

(8) Any person licensed under the now existing dairy laws of the state with respect to his or her operations as such licensee;

(9) Any producer who purchases less than fifteen percent of his or her volume to complete orders;

(10) Any person, association, or corporation regulated under chapter 67.16 RCW and the rules adopted thereunder while performing acts regulated by that chapter and the rules adopted thereunder;

(11) Any domestic winery, as defined in RCW 66.04.010, licensed under Title 66 RCW, with respect to its transactions involving agricultural products used by the domestic winery in making wine.

Sec. 39. RCW 22.09.860 and 2011 c 336 s 649 are each amended to read as follows:

All railroad companies and warehouse operators operating in the cities provided for inspection by this chapter shall furnish ample and sufficient police protection to all their several terminal yards and terminal tracks to securely protect all cars containing commodities while the same are in their possession. They shall prohibit and restrain all unauthorized persons, whether under the guise of sweepers, or under any other pretext whatever, from entering or loitering in or about their railroad yards or tracks and from entering any car of commodities under their control, or removing commodities therefrom, and shall employ and detail such number of (~~watchmen~~) security guards as may be necessary for the purpose of carrying out the provisions of this section.

Sec. 40. RCW 24.34.010 and 2011 c 336 s 674 are each amended to read as follows:

Persons engaged in the production of agricultural products as farmers, planters, (~~ranchmen~~) ranchers, (~~dairymen~~) dairy farmers, nut growers, or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in intrastate commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: PROVIDED, That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he or she may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of eight percent per annum.

And in any case to the following:

Third. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

Sec. 41. RCW 26.12.185 and 2000 c 124 s 9 are each amended to read as follows:

A guardian ad litem, court-appointed special advocate, or investigator under this title appointed under this chapter may release confidential information, records, and reports to the office of the family and children's (~~ombudsman~~) ombuds for the purposes of carrying out its duties under chapter 43.06A RCW.

Sec. 42. RCW 26.44.030 and 2012 c 55 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison

specialist, responsible living skills program staff, HOPE center staff, or state family and children's ((ombudsman)) ombuds or any volunteer in the ((ombudsman's)) ombuds's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases

currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or

higher than the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(13) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's (~~(ombudsman)~~) ombuds of the contents of the report. The department shall also notify the (~~(ombudsman)~~) ombuds of the disposition of the report.

(14) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(15) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(16) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(17) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(18) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

Sec. 43. RCW 26.44.030 and 2012 c 259 s 3 and 2012 c 55 s 1 are each reenacted and amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse,

social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's (~~(ombudsman)~~) ombuds or any volunteer in the (~~(ombudsman's)~~) ombuds's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:

(i) Investigation; or

(ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect

reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) Poses a risk of "imminent harm" consistent with the definition provided in RCW 13.34.050, which includes, but is not limited to, sexual abuse and sexual exploitation as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW, or by the department of early learning.

(c) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

(12)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(13) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report; however, upon parental agreement, the family assessment response period may be extended up to ninety days;

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian sign an agreement to participate in services before services are initiated that informs the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not sign the consent form.

(14) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(15) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's (~~ombudsman~~) ombuds of the contents of the report. The department shall also notify the (~~ombudsman~~) ombuds of the disposition of the report.

(16) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(17)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(18) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

(19) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(20) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

Sec. 44. RCW 26.44.220 and 2005 c 345 s 1 are each amended to read as follows:

(1) Within existing resources, the department shall develop a curriculum designed to train staff of the department's children's administration who assess or provide services to adolescents on how to screen and respond to referrals to child protective services when those referrals may involve victims of abuse or neglect between the ages of eleven and eighteen. At a minimum, the curriculum developed pursuant to this section shall include:

(a) Review of relevant laws and regulations, including the requirement that the department investigate complaints if a parent's or caretaker's actions result in serious physical or emotional harm or present an imminent risk of serious harm to any person under eighteen;

(b) Review of policies of the department's children's administration that require assessment and screening of abuse and neglect referrals on the basis of risk and not age;

(c) Explanation of safety assessment and risk assessment models;

(d) Case studies of situations in which the department has received reports of alleged abuse or neglect of older children and adolescents;

(e) Discussion of best practices in screening and responding to referrals involving older children and adolescents; and

(f) Discussion of how abuse and neglect referrals related to adolescents are investigated and when law enforcement must be notified.

(2) As it develops its curriculum pursuant to this section, the department shall request that the office of the family and children's (~~ombudsman~~) ombuds review and comment on its proposed training materials. The department shall consider the comments and recommendations of the office of the family and children's (~~ombudsman~~) ombuds as it develops the curriculum required by this section.

(3) The department shall complete the curriculum materials required by this section no later than December 31, 2005.

(4) Within existing resources, the department shall incorporate training on the curriculum developed pursuant to this section into existing training for child protective services workers who screen intake calls, children's administration staff responsible for assessing or providing services to older children and adolescents, and all new employees of the children's administration responsible for assessing or providing services to older children and adolescents.

Sec. 45. RCW 27.53.030 and 2011 c 219 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) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture, including material remains of past human life, including monuments, symbols, tools, facilities, and technological by-products.

(3) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(4) "Archaeology" means systematic, scientific study of ~~((man's))~~ humankind's past through material remains.

(5) "Department" means the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(6) "Director" means the director of the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(7) "Field investigation" means an on-site inspection by a professional archaeologist or by an individual under the direct supervision of a professional archaeologist employing archaeological inspection techniques for both the surface and subsurface identification of archaeological resources and artifacts resulting in a professional archaeological report detailing the results of such inspection.

(8) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term "historic" shall include only those properties which are listed in or eligible for listing in the Washington state register of historic places (RCW 27.34.220) or the national register of historic places as defined in the national historic preservation act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(9) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington state register of historic places (RCW 27.34.220) or the national register of historic places as defined in the national historic preservation act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(10) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(11) "Professional archaeologist" means a person with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

Sec. 46. RCW 28A.175.075 and 2010 c 243 s 4 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall establish a state-level building bridges work group that includes K-12 and state agencies that work with youth who have dropped out or are at risk of dropping out of school. The following agencies shall appoint representatives to the work group: The office of the superintendent of public instruction, the workforce training and education coordinating board, the department of early learning, the employment security department, the state board for community and technical colleges, the department of health, the community mobilization office, and the children's services and behavioral health and recovery divisions of the department of social and health services. The work group should also consist of one representative from each of the following agencies and organizations: A statewide organization representing career and technical education programs including skill centers; the juvenile courts or the office of juvenile justice, or both; the Washington association of prosecuting attorneys; the Washington state office of public defense; accredited institutions of higher education; the educational service districts; the area workforce development councils; parent and educator associations; ~~((achievement))~~ educational opportunity gap oversight and accountability committee; office of the education ~~((ombudsman))~~ ombuds; local school districts; agencies or organizations that provide services to special education students; community organizations serving youth; federally recognized tribes and urban tribal centers; each of the major political caucuses of the senate and house of representatives; and the minority commissions.

(2) To assist and enhance the work of the building bridges programs established in RCW 28A.175.025, the state-level work group shall:

(a) Identify and make recommendations to the legislature for the reduction of fiscal, legal, and regulatory barriers that prevent coordination of program resources across agencies at the state and local level;

(b) Develop and track performance measures and benchmarks for each partner agency or organization across the state including performance measures and benchmarks based on student characteristics and outcomes specified in RCW 28A.175.035(1)(e); and

(c) Identify research-based and emerging best practices regarding prevention, intervention, and retrieval programs.

(3)(a) The work group shall report to the quality education council, appropriate committees of the legislature, and the governor on an annual basis beginning December 1, 2007, with proposed strategies for building K-12 dropout prevention, intervention, and reengagement systems in local communities throughout the state including, but not limited to, recommendations

for implementing emerging best practices, needed additional resources, and eliminating barriers.

(b) By September 15, 2010, the work group shall report on:

(i) A recommended state goal and annual state targets for the percentage of students graduating from high school;

(ii) A recommended state goal and annual state targets for the percentage of youth who have dropped out of school who should be reengaged in education and be college and work ready;

(iii) Recommended funding for supporting career guidance and the planning and implementation of K-12 dropout prevention, intervention, and reengagement systems in school districts and a plan for phasing the funding into the program of basic education, beginning in the 2011-2013 biennium; and

(iv) A plan for phasing in the expansion of the current school improvement planning program to include state-funded, dropout-focused school improvement technical assistance for school districts in significant need of improvement regarding high school graduation rates.

(4) State agencies in the building bridges work group shall work together, wherever feasible, on the following activities to support school/family/community partnerships engaged in building K-12 dropout prevention, intervention, and reengagement systems:

(a) Providing opportunities for coordination and flexibility of program eligibility and funding criteria;

(b) Providing joint funding;

(c) Developing protocols and templates for model agreements on sharing records and data;

(d) Providing joint professional development opportunities that provide knowledge and training on:

(i) Research-based and promising practices;

(ii) The availability of programs and services for vulnerable youth; and

(iii) Cultural competence.

(5) The building bridges work group shall make recommendations to the governor and the legislature by December 1, 2010, on a state-level and regional infrastructure for coordinating services for vulnerable youth. Recommendations must address the following issues:

(a) Whether to adopt an official conceptual approach or framework for all entities working with vulnerable youth that can support coordinated planning and evaluation;

(b) The creation of a performance-based management system, including outcomes, indicators, and performance measures relating to vulnerable youth and programs serving them, including accountability for the dropout issue;

(c) The development of regional and/or county-level multipartner youth consortia with a specific charge to assist school districts and local communities in building K-12 comprehensive dropout prevention, intervention, and reengagement systems;

(d) The development of integrated or school-based one-stop shopping for services that would:

(i) Provide individualized attention to the neediest youth and prioritized access to services for students identified by a dropout early warning and intervention data system;

(ii) Establish protocols for coordinating data and services, including getting data release at time of intake and common assessment and referral processes; and

(iii) Build a system of single case managers across agencies;

(e) Launching a statewide media campaign on increasing the high school graduation rate; and

(f) Developing a statewide database of available services for vulnerable youth.

Sec. 47. RCW 28A.175.140 and 2011 c 288 s 4 are each amended to read as follows:

(1) The office of the superintendent of public instruction, in consultation with the state board of education, must:

(a) Calculate the annual extended graduation rate for each high school, which is the rate at which a class of students enters high school as (~~freshmen~~) first-year students and graduates with a high school diploma, including students who receive a high school diploma after the year they were expected to graduate. The office may statistically adjust the rate for student demographics in the high school, including the number of students eligible for free and reduced-price meals, special education and English language learner students, students of various racial and ethnic backgrounds, and student mobility;

(b) Annually calculate the proportion of students at grade level for each high school, which shall be measured by the number of credits a student has accumulated at the end of each school year compared to the total number required for graduation. For the purposes of this subsection (1)(b), the office shall adopt a standard definition of "at grade level" for each high school grade;

(c) Annually calculate the proportion of students in each high school who are suspended or expelled from school, as reported by the high school. In-school suspensions shall not be included in the calculation. Improvement on the indicator under this subsection (1)(c) shall be measured by a reduction in the number of students suspended or expelled from school; and

(d) Beginning with the 2012-13 school year, annually measure student attendance in each high school as provided under RCW 28A.300.046.

(2) The office of the superintendent of public instruction may add dropout prevention indicators to the list of indicators under subsection (1) of this section, such as student grades, state assessment mastery, or student retention.

(3) To the maximum extent possible, the office of the superintendent of public instruction shall rely on data collected through the comprehensive education data and research system to calculate the dropout prevention indicators under this section and shall minimize additional data collection from schools and school districts unless necessary to meet the requirements of this section.

(4) The office of the superintendent of public instruction shall develop a metric for measuring the performance of each high school on the indicators under subsection (1) of this section that assigns points for each indicator and results in a single numeric dropout prevention score for each high school. The office shall weight the extended graduation rate indicator within the metric so that a high school does not qualify for an award under RCW 28A.175.145 without an increase in its extended graduation rate. The metric used through the 2012-13 school year shall include the indicators in subsection (1)(a) through (c)

of this section and shall measure improvement against the 2010-11 school year as the baseline year. Beginning in the 2013-14 school year, the metric shall also include the indicator in subsection (1)(d) of this section, with improvement in this indicator measured against the 2012-13 school year as the baseline year. The office may establish a minimum level of improvement in a high school's dropout prevention score for the high school to qualify for a PASS program award under RCW 28A.175.145.

Sec. 48. RCW 28A.230.020 and 2006 c 263 s 414 are each amended to read as follows:

All common schools shall give instruction in reading, (~~penmanship~~) handwriting, orthography, written and mental arithmetic, geography, the history of the United States, English grammar, physiology and hygiene with special reference to the effects of alcohol and drug abuse on the human system, science with special reference to the environment, and such other studies as may be prescribed by rule of the superintendent of public instruction. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise and methods to prevent exposure to and transmission of sexually transmitted diseases, and the worth of kindness to all living creatures and the land. The prevention of child abuse may be offered as part of the curriculum in the common schools.

Sec. 49. RCW 28A.300.136 and 2011 1st sp.s. c 21 s 33 are each amended to read as follows:

(1) An educational opportunity gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

(a) Supporting and facilitating parent and community involvement and outreach;

(b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;

(c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;

(d) Recommending current programs and resources that should be redirected to narrow the gap;

(e) Identifying data elements and systems needed to monitor progress in closing the gap;

(f) Making closing the achievement gap part of the school and school district improvement process; and

(g) Exploring innovative school models that have shown success in closing the achievement gap.

(3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse

prevention, and other issues that disproportionately affect student achievement and student success.

(4) The educational opportunity gap oversight and accountability committee shall be composed of the following members:

(a) The chairs and ranking minority members of the house and senate education committees, or their designees;

(b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;

(c) A representative of the office of the education (~~(ombudsman)~~) ombuds;

(d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;

(e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and

(f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.

(5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.

(6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.

(7) The chair or cochairs of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) The superintendent of public instruction, the state board of education, the professional educator standards board, and the quality education council shall work collaboratively with the educational opportunity gap oversight and accountability committee to close the achievement gap.

Sec. 50. RCW 28A.300.285 and 2010 c 239 s 2 are each amended to read as follows:

(1) By August 1, 2011, each school district shall adopt or amend if necessary a policy and procedure that at a minimum incorporates the revised model policy and procedure provided under subsection (4) of this section that prohibits the harassment, intimidation, or bullying of any student. It is the responsibility of each school district to share this policy with parents or guardians, students, volunteers, and school employees in accordance with rules adopted by the superintendent of public instruction. Each school district shall designate one person in the district as the primary contact regarding the antiharassment, intimidation, or bullying policy. The primary contact shall receive copies of all formal and informal complaints, have responsibility for assuring the implementation of the policy and procedure, and serve as the primary contact on the policy and procedures between the school district, the

office of the education ((~~ombudsman~~) ombuds), and the office of the superintendent of public instruction.

(2) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated by any characteristic in RCW 9A.36.080(3), or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

- (a) Physically harms a student or damages the student's property; or
- (b) Has the effect of substantially interfering with a student's education; or
- (c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
- (d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

(3) The policy and procedure should be adopted or amended through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives. It is recommended that each such policy emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying.

(4)(a) By August 1, 2010, the superintendent of public instruction, in consultation with representatives of parents, school personnel, the office of the education ((~~ombudsman~~) ombuds), the Washington state school directors' association, and other interested parties, shall provide to the education committees of the legislature a revised and updated model harassment, intimidation, and bullying prevention policy and procedure. The superintendent of public instruction shall publish on its web site, with a link to the safety center web page, the revised and updated model harassment, intimidation, and bullying prevention policy and procedure, along with training and instructional materials on the components that shall be included in any district policy and procedure. The superintendent shall adopt rules regarding school districts' communication of the policy and procedure to parents, students, employees, and volunteers.

(b) The office of the superintendent of public instruction has the authority to update with new technologies access to this information in the safety center, to the extent resources are made available.

(c) Each school district shall by August 15, 2011, provide to the superintendent of public instruction a brief summary of its policies, procedures, programs, partnerships, vendors, and instructional and training materials to be posted on the school safety center web site, and shall also provide the superintendent with a link to the school district's web site for further information. The district's primary contact for bullying and harassment issues shall annually by August 15th verify posted information and links and notify the school safety center of any updates or changes.

(5) The Washington state school directors' association, with the assistance of the office of the superintendent of public instruction, shall convene an advisory committee to develop a model policy prohibiting acts of harassment, intimidation, or bullying that are conducted via electronic means by a student

while on school grounds and during the school day. The policy shall include a requirement that materials meant to educate parents and students about the seriousness of cyberbullying be disseminated to parents or made available on the school district's web site. The school directors' association and the advisory committee shall develop sample materials for school districts to disseminate, which shall also include information on responsible and safe internet use as well as what options are available if a student is being bullied via electronic means(¿) including, but not limited to, reporting threats to local police and when to involve school officials, the internet service provider, or phone service provider. The school directors' association shall submit the model policy and sample materials, along with a recommendation for local adoption, to the governor and the legislature and shall post the model policy and sample materials on its web site by January 1, 2008. Each school district board of directors shall establish its own policy by August 1, 2008.

(6) As used in this section, "electronic" or "electronic means" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

Sec. 51. RCW 28A.300.2851 and 2011 c 185 s 2 are each amended to read as follows:

(1) The office of the superintendent of public instruction and the office of the education ((ombudsman)) ombuds shall convene a work group on school bullying and harassment prevention to develop, recommend, and implement strategies to improve school climate and create respectful learning environments in all public schools in Washington. The superintendent of public instruction or a designee shall serve as the chair of the work group.

(2) The work group shall:

(a) Consider whether additional disaggregated data should be collected regarding incidents of bullying and harassment or disciplinary actions and make recommendations to the office of the superintendent of public instruction for collection of such data;

(b) Examine possible procedures for anonymous reporting of incidents of bullying and harassment;

(c) Identify curriculum and best practices for school districts to improve school climate, create respectful learning environments, and train staff and students in de-escalation and intervention techniques;

(d) Identify curriculum and best practices for incorporating instruction about mental health, youth suicide prevention, and prevention of bullying and harassment;

(e) Recommend best practices for informing parents about the harassment, intimidation, and bullying prevention policy and procedure under RCW 28A.300.285 and involving parents in improving school climate;

(f) Recommend training for district personnel who are designated as the primary contact regarding the policy and procedure and for school resource officers and other school security personnel;

(g) Recommend educator preparation and certification requirements in harassment, intimidation, and bullying prevention and de-escalation and intervention techniques for teachers, educational staff associates, and school administrators;

(h) Examine and recommend policies for discipline of students and staff who harass, intimidate, or bully; and

(i) In collaboration with the state board for community and technical colleges, examine and recommend policies to protect K-12 students attending community and technical colleges from harassment, intimidation, and bullying.

(3) The work group must include representatives from the state board of education, the Washington state parent teacher association, the Washington state association of school psychologists, school directors, school administrators, principals, teachers, school counselors, classified school staff, youth, community organizations, and parents.

(4) The work group shall submit a biennial progress and status report to the governor and the education committees of the legislature, beginning December 1, 2011, with additional reports by December 1, 2013, and December 1, 2015.

(5) The work group is terminated effective January 1, 2016.

Sec. 52. RCW 28B.10.053 and 2012 c 229 s 510 are each amended to read as follows:

(1) By December 1, 2011, and by June of each odd-numbered year thereafter, the institutions of higher education shall collaboratively develop a master list of postsecondary courses that can be fulfilled by taking the advanced placement, international baccalaureate, or other recognized college-level proficiency examinations, including but not limited to examinations by a national multidisciplinary science, technology, engineering, and mathematics program, and meeting the qualifying examination score or demonstrated competencies for lower division general education requirements or postsecondary professional technical requirements. The master list of postsecondary courses fulfilled by proficiency examinations or demonstrated competencies are those that fulfill lower division general education requirements or career and technical education requirements and qualify for postsecondary credit. From the master list, each institution shall create and publish a list of its courses that can be satisfied by successful proficiency examination scores or demonstrated competencies for lower division general education requirements or postsecondary professional technical requirements. The qualifying examination scores and demonstrated competencies shall be included in the published list. The requirements to develop a master list under this section do not apply if an institution has a clearly published policy of awarding credit for the advanced placement, international baccalaureate, or other recognized college-level placement exams and does not require those credits to meet specific course requirements but generally applies those credits towards degree requirements.

(2) To the maximum extent possible, institutions of higher education shall agree on examination qualifying scores and demonstrated competencies for the credits or courses under subsection (3) of this section, with scores equivalent to qualified or well-qualified. Nothing in this subsection shall prevent an institution of higher education from adopting policies using higher scores for additional purposes.

(3) Each institution of higher education, in designing its certificate, technical degree program, two-year academic transfer program, or (~~freshman~~) first-year student and sophomore courses of a baccalaureate program or baccalaureate degree, must recognize the equivalencies of at least one year of course credit and maximize the application of the credits toward lower division

general education requirements that can be earned through successfully demonstrating proficiency on examinations, including but not limited to advanced placement and international baccalaureate examinations. The successful completion of the examination and the award of credit shall be noted on the student's college transcript.

(4) Each institution of higher education must clearly include in its admissions materials and on its web site the credits or the institution's list of postsecondary courses that can be fulfilled by proficiency examinations or demonstrated competencies and the agreed-upon examination scores and demonstrated competencies that qualify for postsecondary credit. Each institution must provide the information to the student achievement council and state board for community and technical colleges in a form that the superintendent of public instruction is able to distribute to school districts.

Sec. 53. RCW 28B.15.102 and 2012 c 229 s 526 are each amended to read as follows:

(1) Beginning with the 2011-12 academic year, any four-year institution of higher education that increases tuition beyond levels assumed in the omnibus appropriations act is subject to the financial aid requirements included in this section and shall remain subject to these requirements through the 2018-19 academic year.

(2) Beginning July 1, 2011, each four-year institution of higher education that raises tuition beyond levels assumed in the omnibus appropriations act shall, in a manner consistent with the goal of enhancing the quality of and access to their institutions, provide financial aid to offset full-time tuition fees for resident undergraduate students as follows:

(a) Subtract from the full-time tuition fees an amount that is equal to the maximum amount of a state need grant award that would be given to an eligible student with a family income at or below fifty percent of the state's median family income as determined by the student achievement council; and

(b) Offset the remainder as follows:

(i) Students with demonstrated need whose family incomes are at or below fifty percent of the state's median family income shall receive financial aid equal to one hundred percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is five percent or greater of the state's median family income for a family of four as provided by the student achievement council;

(ii) Students with demonstrated need whose family incomes are greater than fifty percent and no more than seventy percent of the state's median family income shall receive financial aid equal to seventy-five percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is ten percent or greater of the state's median family income for a family of four as provided by the student achievement council;

(iii) Students with demonstrated need whose family incomes exceed seventy percent and are less than one hundred percent of the state's median family income shall receive financial aid equal to fifty percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is fifteen percent or greater of the state's median family income for a family of four as provided by the student achievement council; and

(iv) Students with demonstrated need whose family incomes are at or exceed one hundred percent and are no more than one hundred twenty-five percent of the state's median family income shall receive financial aid equal to twenty-five percent of the remainder if an institution's full-time tuition fees for resident undergraduate students is twenty percent or greater of the state's median family income for a family of four as provided by the student achievement council.

(3) The financial aid required in subsection (2) of this section shall:

(a) Be reduced by the amount of other financial aid awards, not including the state need grant;

(b) Be prorated based on credit load; and

(c) Only be provided to students up to demonstrated need.

(4) Financial aid sources and methods may be:

(a) Tuition revenue or locally held funds;

(b) Tuition waivers created by a four-year institution of higher education for the specific purpose of serving low and middle-income students; or

(c) Local financial aid programs.

(5) Use of tuition waivers as specified in subsection (4)(b) of this section shall not be included in determining total state tuition waiver authority as defined in RCW 28B.15.910.

(6) By August 15, 2012, and August 15th every year thereafter, four-year institutions of higher education shall report to the governor and relevant committees of the legislature on the effectiveness of the various sources and methods of financial aid in mitigating tuition increases. A key purpose of these reports is to provide information regarding the results of the decision to grant tuition-setting authority to the four-year institutions of higher education and whether tuition setting authority should continue to be granted to the institutions or revert back to the legislature after consideration of the impacts on students, including educational access, affordability, and quality. These reports shall include:

(a) The amount of additional financial aid provided to middle-income and low-income students with demonstrated need in the aggregate and per student;

(b) An itemization of the sources and methods of financial aid provided by the four-year institution of higher education in the aggregate and per student;

(c) An analysis of the combined impact of federal tuition tax credits and financial aid provided by the institution of higher education on the net cost to students and their families resulting from tuition increases;

(d) In cases where tuition increases are greater than those assumed in the omnibus appropriations act at any four-year institution of higher education, the institution must include an explanation in its report of why this increase was necessary and how the institution will mitigate the effects of the increase. The institution must include in this section of its report a plan and specific timelines; and

(e) An analysis of changes in resident student enrollment patterns, participation rates, graduation rates, and debt load, by race and ethnicity, gender, state and county of origin, age, and socioeconomic status, and a plan to mitigate effects of reduced diversity due to tuition increases. This analysis shall include disaggregated data for resident students in the following income brackets:

(i) Up to seventy percent of the median family income;

(ii) Between seventy-one percent and one hundred twenty-five percent of the median family income; and

(iii) Above one hundred twenty-five percent of the median family income.

(7) Beginning in the 2012-13 academic year, the University of Washington shall enroll during each academic year at least the same number of resident (~~freshman~~) first-year undergraduate students at the Seattle campus, as defined in RCW 28B.15.012, as enrolled during the 2009-10 academic year. This requirement shall not apply to nonresident undergraduate and graduate and professional students.

Sec. 54. RCW 28B.45.020 and 2012 c 229 s 532 are each amended to read as follows:

(1) The University of Washington is responsible for ensuring the expansion of baccalaureate and graduate educational programs in the central Puget Sound area under rules or guidelines adopted by the student achievement council and in accordance with proportionality agreements emphasizing access for transfer students developed with the state board for community and technical colleges. The University of Washington shall meet that responsibility through the operation of at least two branch campuses. One branch campus shall be located in the Tacoma area. Another branch campus shall be collocated with Cascadia Community College in the Bothell-Woodinville area.

(2) At the University of Washington Tacoma, a top priority is expansion of upper division capacity for transfer students and graduate capacity and programs. Beginning in the fall of 2006, the campus may offer lower division courses linked to specific majors in fields not addressed at local community colleges. The campus shall admit lower division students through coadmission or coenrollment agreements with a community college, or through direct transfer for students who have accumulated approximately one year of transferable college credits. In addition to offering lower division courses linked to specific majors as addressed above, the campus may also directly admit (~~freshmen~~) first-year students and sophomores.

(3) At the University of Washington Bothell, a top priority is expansion of upper division capacity for transfer students and graduate capacity and programs. The campus shall also seek additional opportunities to collaborate with and maximize its colocation with Cascadia Community College. Beginning in the fall of 2006, the campus may offer lower division courses linked to specific majors in fields not addressed at local community colleges. The campus may admit lower division students through coadmission or coenrollment agreements with a community college, or through direct transfer for students who have accumulated approximately one year of transferable college credits. In addition to offering lower division courses linked to specific majors as addressed above, the campus may also directly admit (~~freshmen~~) first-year students and sophomores.

Sec. 55. RCW 28B.45.030 and 2012 c 229 s 533 are each amended to read as follows:

(1) Washington State University is responsible for providing baccalaureate and graduate level higher education programs to the citizens of the Tri-Cities area, under rules or guidelines adopted by the student achievement council and in accordance with proportionality agreements emphasizing access for transfer

students developed with the state board for community and technical colleges. Washington State University shall meet that responsibility through the operation of a branch campus in the Tri-Cities area. The branch campus shall replace and supersede the Tri-Cities university center. All land, facilities, equipment, and personnel of the Tri-Cities university center shall be transferred from the University of Washington to Washington State University.

(2) Beginning in the fall of 2007, the Washington State University Tri-Cities branch campus may directly admit (~~(freshman)~~) first-year students and sophomore students.

Sec. 56. RCW 28B.45.040 and 2012 c 229 s 534 are each amended to read as follows:

(1) Washington State University is responsible for providing baccalaureate and graduate level higher education programs to the citizens of the southwest Washington area, under rules or guidelines adopted by the student achievement council and in accordance with proportionality agreements emphasizing access for transfer students developed with the state board for community and technical colleges. Washington State University shall meet that responsibility through the operation of a branch campus in the southwest Washington area.

(2) Washington State University Vancouver shall expand upper division capacity for transfer students and graduate capacity and programs and continue to collaborate with local community colleges on coadmission and coenrollment programs. In addition, beginning in the fall of 2006, the campus may admit lower division students directly. By simultaneously admitting (~~(freshmen)~~) first-year students and sophomores, increasing transfer enrollment, coadmitting transfer students, and expanding graduate and professional programs, the campus shall develop into a four-year institution serving the southwest Washington region.

Sec. 57. RCW 28B.50.278 and 2010 c 40 s 1 are each amended to read as follows:

(1) An opportunity employment and education center is established within the Seattle community college district.

(2) The center shall:

(a) House various educational and social service providers and integrate access to employment, counseling, and public benefit programs and services as well as education, training, financial aid, and counseling services offered through community colleges;

(b) Identify and form partnerships with community-based organizations that enhance the services and supports provided to individuals using the center; (~~(and)~~)

(c) Provide services including, but not limited to, employment security and workforce development council worksource services; job listing, referral, and placement; job coaching; employment counseling, testing, and career planning; unemployment insurance claim filing assistance; cash grant programs run by the department of social and health services; the basic food program; housing assistance; child support assistance; child care subsidies; WorkFirst and temporary assistance (~~(to [for])~~) for needy families; general assistance and supplemental security income facilitation; vocational rehabilitation services and referrals; medicaid and medical services; alcoholism and drug addiction

treatment and support act referrals; case management and mental health referrals; community college financial aid; support services; college counseling services related to career pathways and basic skills resources for English language learners; high school completion; and adult basic education; and

(d) In partnership with the state board for community and technical colleges, jointly develop evaluation criteria and performance indicators that demonstrate the degree to which the center is successfully integrating services and improving service delivery.

(3) The chancellor of the Seattle community college district and technical colleges, or the chancellor's designee, shall convene an opportunity policy work group charged with governing the opportunity employment and education center. The work group membership shall include, but not be limited to, representatives of the King county workforce development council, north Seattle community college, the employment security department, and the department of social and health services. A chair shall be chosen from among the work group's membership on an annual basis, with the ~~((chairmanship))~~ position of chair rotating among participating agencies. The work group shall:

(a) Determine protocols for service delivery, develop operating policies and procedures, develop cross-agency training for agency employees located at the center, and develop a plan for a common information technology framework that could allow for interagency access to files and information, including any common application and screening systems that facilitate access to state, federal, and local social service and educational programs, within current resources and to the extent federal privacy laws allow;

(b) Develop a release of information form that may be voluntarily completed by opportunity center clients to facilitate the information sharing outlined in ~~((subsection (3)))~~(a) of this ~~((section))~~ subsection. The form is created to aid agencies housed at the opportunity center in determining client eligibility for various social and educational services. The form shall address the types of information to be shared, the agencies with which personal information can be shared, the length of time agencies may keep shared information on file, and any other issue areas identified by the opportunity policy work group to comply with all applicable federal and state laws;

(c) Review national best practices for program operation and provide training to program providers both before opening the center and on an ongoing basis; and

(d) Jointly develop integrated solutions to provide more cost-efficient and customer friendly service delivery.

(4) Participating agencies shall identify and apply for any federal waivers necessary to facilitate the intended goals and operation of the center.

(5) The state board for community and technical colleges shall report to legislative committees with subject areas of commerce and labor, human services, and higher education on the following:

(a) By December 1, 2010, the board, in partnership with participating agencies, shall provide recommendations on a proposed site for an additional opportunity employment and education center; and

(b) By December 1, 2011, and annually thereafter, the board shall provide an evaluation of existing centers based on performance criteria identified by the

board and the opportunity policy work group. The report shall also include data on any federal and state legislative barriers to integration.

(6) All future opportunity centers shall be governed by the provisions in this section and are subject to the same reporting requirements.

Sec. 58. RCW 28B.50.100 and 2012 c 228 s 5 and 2012 c 148 s 2 are each reenacted and amended to read as follows:

There is hereby created a board of trustees for each college district as set forth in this chapter. Each board of trustees shall be composed of five trustees, except as provided in RCW 28B.50.102, who shall be appointed by the governor for terms commencing October 1st of the year in which appointed. In making such appointments, the governor shall give consideration to geographical diversity, and representing labor, business, women, and racial and ethnic minorities, in the membership of the boards of trustees. The boards of trustees for districts containing technical colleges shall include at least one member from business and one member from labor.

The successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term. Each member shall serve until a successor is appointed and qualified.

Every trustee shall be a resident and qualified elector of the college district. No trustee may be an employee of the community and technical college system, a member of the board of directors of any school district, or a member of the governing board of any public or private educational institution.

Each board of trustees shall organize itself by electing a (~~(chairman)~~) chair from its members. The board shall adopt a seal and may adopt such bylaws, rules, and regulations as it deems necessary for its own government. Three members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The district president, or if there be none, the president of the college, shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board.

Each board of trustees shall follow procedures for open public meetings in chapter 42.30 RCW. Each board shall provide time for public comment at each meeting.

Members of the boards of trustees may be removed for misconduct or malfeasance in office in the manner provided by RCW 28B.10.500.

Sec. 59. RCW 28B.76.502 and 2012 c 31 s 1 are each amended to read as follows:

(1) The office must provide a financial aid counseling curriculum to institutions of higher education with state need grant recipients. The curriculum must be available via a web site. The curriculum must include, but not be limited to:

(a) An explanation of the state need grant program rules, including maintaining satisfactory progress, repayment rules, and usage limits;

(b) Information on campus and private scholarships and work-study opportunities, including the application processes;

(c) An overview of student loan options with an emphasis on the repayment obligations a student borrower assumes regardless of program completion, including the likely consequences of default and sample monthly repayment amounts based on a range of student levels of indebtedness;

(d) An overview of financial literacy, including basic money management skills such as living within a budget and handling credit and debt;

(e) Average salaries for a wide range of jobs;

(f) Perspectives from a diverse group of students who are or were recipients of financial aid, including student loans; and

(g) Contact information for local financial aid resources and the federal student aid (~~ombudsman's~~) **ombuds's** office.

(2) By the 2013-14 academic year, the institution of higher education must take reasonable steps to ensure that each state need grant recipient receives information outlined in subsection (1)(a) through (g) of this section by directly referencing or linking to the web site on the conditions of award statement provided to each recipient.

(3) By July 1, 2013, the office must disseminate the curriculum to all institutions of higher education participating in the state need grant program. The institutions of higher education may require nonstate need grant recipients to participate in all or portions of the financial aid counseling.

Sec. 60. RCW 28B.77.090 and 2012 c 229 s 115 are each amended to read as follows:

(1) An accountability monitoring and reporting system is established as part of a continuing effort to make meaningful and substantial progress towards the achievement of long-term performance goals in higher education.

(2) To provide consistent, easily understood data among the public four-year institutions of higher education within Washington and in other states, the following data must be reported to the education data center annually by December 1st, and at a minimum include data recommended by a national organization representing state chief executives. The education data center in consultation with the council may change the data requirements to be consistent with best practices across the country. This data must, to the maximum extent possible, be disaggregated by race and ethnicity, gender, state and county of origin, age, and socioeconomic status, and include the following for the four-year institutions of higher education:

(a) Bachelor's degrees awarded;

(b) Graduate and professional degrees awarded;

(c) Graduation rates: The number and percentage of students who graduate within four years for bachelor's degrees and within the extended time, which is six years for bachelor's degrees;

(d) Transfer rates: The annual number and percentage of students who transfer from a two-year to a four-year institution of higher education;

(e) Time and credits to degree: The average length of time in years and average number of credits that graduating students took to earn a bachelor's degree;

(f) Enrollment in remedial education: The number and percentage of entering first-time undergraduate students who place into and enroll in remedial mathematics, English, or both;

(g) Success beyond remedial education: The number and percentage of entering first-time undergraduate students who complete entry college-level math and English courses within the first two consecutive academic years;

(h) Credit accumulation: The number and percentage of first-time undergraduate students completing two quarters or one semester worth of credit during their first academic year;

(i) Retention rates: The number and percentage of entering undergraduate students who enroll consecutively from fall-to-spring and fall-to-fall at an institution of higher education;

(j) Course completion: The percentage of credit hours completed out of those attempted during an academic year;

(k) Program participation and degree completion rates in bachelor and advanced degree programs in the sciences, which includes agriculture and natural resources, biology and biomedical sciences, computer and information sciences, engineering and engineering technologies, health professions and clinical sciences, mathematics and statistics, and physical sciences and science technologies, including participation and degree completion rates for students from traditionally underrepresented populations;

(l) Annual enrollment: Annual unduplicated number of students enrolled over a twelve-month period at institutions of higher education including by student level;

(m) Annual first-time enrollment: Total first-time students enrolled in a four-year institution of higher education;

(n) Completion ratio: Annual ratio of undergraduate and graduate degrees and certificates, of at least one year in expected length, awarded per one hundred full-time equivalent undergraduate students at the state level;

(o) Market penetration: Annual ratio of undergraduate and graduate degrees and certificates, of at least one year in program length, awarded relative to the state's population age eighteen to twenty-four years old with a high school diploma;

(p) Student debt load: Median three-year distribution of debt load, excluding private loans or debts incurred before coming to the institution;

(q) Data related to enrollment, completion rates, participation rates, and debt load shall be disaggregated for students in the following income brackets to the maximum extent possible:

(i) Up to seventy percent of the median family income;

(ii) Between seventy-one percent and one hundred twenty-five percent of the median family income; and

(iii) Above one hundred twenty-five percent of the median family income; and

(r) Yearly percentage increases in the average cost of undergraduate instruction.

(3) Four-year institutions of higher education must count all students when collecting data, not only first-time, full-time (~~freshmen~~) first-year students.

(4) In conjunction with the office of financial management, all four-year institutions of higher education must display the data described in subsection (2) of this section in a uniform dashboard format on the office of financial management's web site no later than December 1, 2011, and updated thereafter annually by December 1st. To the maximum extent possible, the information

must be viewable by race and ethnicity, gender, state and county of origin, age, and socioeconomic status. The information may be tailored to meet the needs of various target audiences such as students, researchers, and the general public.

(5) The council shall use performance data from the education data center for the purposes of strategic planning, to report on progress toward achieving statewide goals, and to develop priorities proposed in the ten-year plan for higher education.

Sec. 61. RCW 28B.77.220 and 2012 c 229 s 541 are each amended to read as follows:

(1) The council must convene work groups to develop transfer associate degrees that will satisfy lower division requirements at public four-year institutions of higher education for specific academic majors. Work groups must include representatives from the state board for community and technical colleges and the council of presidents, as well as faculty from two and four-year institutions. Work groups may include representatives from independent four-year institutions.

(2) Each transfer associate degree developed under this section must enable a student to complete the lower-division courses or competencies for general education requirements and preparation for the major that a direct-entry student would typically complete in the (~~freshman~~) first-year student and sophomore years for that academic major.

(3) Completion of a transfer associate degree does not guarantee a student admission into an institution of higher education or admission into a major, minor, or professional program at an institution of higher education that has competitive admission standards for the program based on grade point average or other performance criteria.

(4) During the 2004-05 academic year, the work groups must develop transfer degrees for elementary education, engineering, and nursing. As necessary based on demand or identified need, the council must convene additional groups to identify and develop additional transfer degrees. The council must give priority to majors in high demand by transfer students and majors that the general direct transfer agreement associate degree does not adequately prepare students to enter automatically upon transfer.

(5) The council, in collaboration with the intercollege relations commission, must collect and maintain lists of courses offered by each community and technical college and public four-year institution of higher education that fall within each transfer associate degree.

(6) The council must monitor implementation of transfer associate degrees by public four-year institutions to ensure compliance with subsection (2) of this section.

(7) Beginning January 10, 2005, the council must submit a progress report on the development of transfer associate degrees to the higher education committees of the house of representatives and the senate. The first progress report must include measurable benchmark indicators to monitor the effectiveness of the initiatives in improving transfer and baseline data for those indicators before the implementation of the initiatives. Subsequent reports must be submitted by January 10th of each odd-numbered year and must monitor progress on the indicators, describe development of additional transfer associate degrees, and provide other data on improvements in transfer efficiency.

Sec. 62. RCW 35.39.060 and 2009 c 549 s 2076 are each amended to read as follows:

Any city or town now or hereafter operating an employees' pension system with the approval of the board otherwise responsible for management of its respective funds may invest, reinvest, manage, contract, sell, or exchange investments acquired. Investments shall be made in accordance with investment policy duly established and published by the board. In discharging its duties under this section, the board shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent ~~((man or woman))~~ person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; shall diversify the investments of the employees' pension system so as to minimize the risk of large losses; and shall act in accordance with the documents and instruments governing the employees' pension system, insofar as such documents and instruments are consistent with the provisions of this title.

Sec. 63. RCW 35.50.260 and 1997 c 393 s 3 are each amended to read as follows:

In foreclosing local improvement assessments the action shall be tried to the court without a jury. If the parties interested in any particular lot, tract, or parcel default, the court may enter judgment of foreclosure and sale as to such parties and lots, tracts, or parcels and the action may proceed as to the remaining defendants and lots, tracts, or parcels. Judgment and order of sale may be entered as to any one or more separate lots, tracts, or parcels involved in the action and the court shall retain jurisdiction to others.

The judgment shall specify separately the amount of the installments with interest, penalty, and all reasonable administrative costs, including, but not limited to, the title searches, chargeable to each lot, tract, or parcel. The judgment shall have the effect of a separate judgment as to each lot, tract, or parcel described in the judgment, and any appeal shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. In the judgment the court shall order the lots, tracts, or parcels therein described sold by the city or town treasurer or by the county sheriff and an order of sale shall issue pursuant thereto for the enforcement of the judgment.

In all other respects, the trial, judgment, and appeals to the supreme court or the court of appeals shall be governed by the statutes governing the foreclosure of mortgages on real property.

Prior to the sale of the property, if the property is shown on the property tax rolls under unknown owner or if the property contains a residential structure having an assessed value of two thousand dollars or more, the treasurer shall order or conduct a title search of the property to determine the record title holders and all persons claiming a mortgage, deed of trust, or mechanic's, laborer's, ~~((materialmen's))~~ material supplier's, or vendor's lien on the property.

At least thirty days prior to the sale of the property, a copy of the notice of sale shall be mailed by certified and regular mail to all defendants in the foreclosure action as to that parcel, lot, or tract and, if the owner is unknown or the property contains a residential structure having an assessed value of two thousand dollars or more, a copy of the notice of sale shall be mailed by regular and certified mail to any additional record title holders and persons claiming a

mortgage, deed of trust, or mechanic's, laborer's, (~~(materialmen's)~~) material supplier's, or vendor's lien on the property.

In all other respects, the procedure for sale shall be conducted in the same manner as property tax sales described in RCW 84.64.080.

Sec. 64. RCW 35A.37.010 and 1995 c 301 s 60 are each amended to read as follows:

Code cities shall establish such funds for the segregation, budgeting, expenditure, and accounting for moneys received for special purposes as are required by general law applicable to such cities' activities and the officers thereof shall pay into, expend from, and account for such moneys in the manner provided therefor including, but not limited to, the requirements of the following:

- (1) Accounting funds as required by RCW 35.37.010;
- (2) Annexation and consolidation fund as required by chapters 35.10 and 35.13 RCW;
- (3) Assessment fund as required by RCW 8.12.480;
- (4) Equipment rental fund as authorized by RCW 35.21.088;
- (5) Current expense fund as required by RCW 35.37.010, usually referred to as the general fund;
- (6) Local improvement guaranty fund as required by RCW 35.54.010;
- (7) An indebtedness and sinking fund, together with separate funds for utilities and institutions as required by RCW 35.37.020;
- (8) Local improvement district fund and revolving fund as required by RCW 35.45.130 and 35.48.010;
- (9) City street fund as required by chapter 35.76 RCW and RCW 47.24.040;
- (10) (~~(Firemen's)~~) Firefighters' relief and pension fund as required by chapters 41.16 and 41.18 RCW;
- (11) (~~(Policemen's)~~) Police relief and pension fund as required by RCW 41.20.130 and 63.32.030;
- (12) First-class cities' employees retirement and pension system as authorized by chapter 41.28 RCW;
- (13) Applicable rules of the state auditor.

Sec. 65. RCW 35A.42.040 and 1991 c 81 s 39 are each amended to read as follows:

In addition to any specific enumeration of duties of city clerks in a code city's charter or ordinances, and without limiting the generality of RCW 35A.21.030 of this title, the clerks of all code cities shall perform the following duties in the manner prescribed, to wit: (1) Certification of city streets as part of the highway system in accordance with the provisions of RCW 47.24.010; (2) perform the functions of a member of a (~~(firemen's)~~) firefighters' pension board as provided by RCW 41.16.020; (3) keep a record of ordinances of the city and provide copies thereof as authorized by RCW 5.44.080; (4) serve as applicable the trustees of any police relief and pension board as authorized by RCW 41.20.010; and (5) serve as secretary-treasurer of volunteer firefighters' relief and pension boards as provided in RCW 41.24.060.

Sec. 66. RCW 35A.84.010 and 1967 ex.s. c 119 s 35A.84.010 are each amended to read as follows:

The taxation of property in code cities shall be governed by general provisions of the law including, but not limited to, the provisions of: (1) Chapter 84.09 RCW, relating to the time for establishment of official boundaries of taxing districts on the first day of March of each year; (2) chapter 84.12 RCW relating to the assessment and taxation of public utilities; (3) chapter 84.16 RCW, relating to the apportionment of taxation on private car companies; (4) chapter 84.20 RCW, relating to the taxation of easements of public utilities; (5) chapter 84.24 RCW, relating to the reassessment of property; (6) chapter 84.36 RCW, relating to property subject to taxation and exemption therefrom; (7) chapter 84.40 RCW relating to the listing of property for assessment; (8) chapter 84.41 RCW, relating to reevaluation of property; (9) chapter 84.44 RCW, relating to the taxable situs of personalty; (10) chapter 84.48 RCW, relating to the equalization of assessments; (11) chapter 84.52 RCW, relating to the levy of taxes, both regular and excess; (12) chapter 84.56 RCW, relating to the collection of taxes; (13) chapter 84.60 RCW, relating to the lien of taxes and the priority thereof; (14) chapter 84.69 RCW, relating to refunds and claims therefor against the code city; and (15) RCW 41.16.060, relating to taxation for (~~firemen's~~) firefighters' pension fund.

Sec. 67. RCW 36.39.060 and 1983 c 290 s 13 are each amended to read as follows:

(1) Counties, cities, and towns are granted the authority, and it is hereby declared to be a public purpose for counties, cities, and towns, to establish and administer senior citizens programs either directly or by creating public corporations or authorities to carry out the programs and to expend their own funds for such purposes, as well as to expend federal, state, or private funds that are made available for such purposes. Such federal funds shall include, but not be limited to, funds provided under the federal Older Americans Act, as amended (42 U.S.C. Sec. 3001 et seq.).

(2) Counties, cities, and towns may establish and administer long-term care (~~ombudsman~~) ombuds programs for residents, patients, and clients if such a program is not prohibited by federal or state law. Such local (~~ombudsman~~) ombuds programs shall be coordinated with the efforts of other long-term care (~~ombudsman~~) ombuds programs, including the office of the state long-term care (~~ombudsman~~) ombuds established in RCW 43.190.030, to avoid multiple investigation of complaints.

Sec. 68. RCW 41.04.130 and 1945 c 52 s 1 are each amended to read as follows:

Any city of the first class may, by ordinance, extend, upon conditions deemed proper, the provisions of retirement and pension systems for superannuated and disabled officers and employees to officers and employees with five years of continuous service and acting in capacities in which they would otherwise not be entitled to participation in such systems: PROVIDED, That the following shall be specifically exempted from the provisions of this section.

(1) Members of the police departments who are entitled to the benefits of the police relief and pension fund as established by state law.

(2) Members of the fire department who are entitled to the benefits of the (~~firemen's~~) firefighters' relief and pension fund as established by state law.

Sec. 69. RCW 41.26.110 and 2005 c 66 s 1 are each amended to read as follows:

(1) All claims for disability shall be acted upon and either approved or disapproved by either type of disability board authorized to be created in this section.

(a) Each city having a population of twenty thousand or more shall establish a disability board having jurisdiction over all members employed by those cities and composed of the following five members: Two members of the city legislative body to be appointed by the mayor; one active or retired firefighter employed by or retired from the city to be elected by the firefighters employed by or retired from the city who are subject to the jurisdiction of the board; one active or retired law enforcement officer employed by or retired from the city to be elected by the law enforcement officers employed by or retired from the city who are subject to the jurisdiction of the board; and one member from the public at large who resides within the city to be appointed by the other four members designated in this subsection. Only those active or retired firefighters and law enforcement officers who are subject to the jurisdiction of the board have the right to elect under this section. All firefighters and law enforcement officers employed by or retired from the city are eligible for election. Each of the elected members shall serve a two year term. The members appointed pursuant to this subsection shall serve for two year terms: PROVIDED, That cities of the first class only, shall retain existing (~~firemen's~~) firefighters' pension boards established pursuant to RCW 41.16.020 and existing boards of trustees of the relief and pension fund of the police department as established pursuant to RCW 41.20.010 which such boards shall have authority to act upon and approve or disapprove claims for disability by firefighters or law enforcement officers as provided under the Washington law enforcement officers' and firefighters' retirement system act.

(b) Each county shall establish a disability board having jurisdiction over all members employed by or retired from an employer within the county and not employed by a city in which a disability board is established. The county disability board so created shall be composed of five members to be chosen as follows: One member of the legislative body of the county to be appointed by the county legislative body; one member of a city or town legislative body located within the county which does not contain a city disability board established pursuant to subsection (1)(a) of this section to be chosen by a majority of the mayors of such cities and towns within the county which does not contain a city disability board; one active firefighter or retired firefighter employed by or retired from an employer within the county to be elected by the firefighters employed or retired from an employer within the county who are not employed by or retired from a city in which a disability board is established and who are subject to the jurisdiction of that board; one law enforcement officer or retired law enforcement officer employed by or retired from an employer within the county to be elected by the law enforcement officers employed in or retired from an employer within the county who are not employed by or retired from a city in which a disability board is established and who are subject to the jurisdiction of that board; and one member from the public at large who resides within the county but does not reside within a city in which a city disability board is established, to be appointed by the other four members designated in

this subsection. However, in counties with a population less than sixty thousand, the member of the disability board appointed by a majority of the mayors of the cities and towns within the county that do not contain a city disability board must be a resident of one of the cities and towns but need not be a member of a city or town legislative body. Only those active or retired firefighters and law enforcement officers who are subject to the jurisdiction of the board have the right to elect under this section. All firefighters and law enforcement officers employed by or retired from an employer within the county who are not employed by or retired from a city in which a disability board is established are eligible for election. All members appointed or elected pursuant to this subsection shall serve for two year terms. If there are no firefighters under the jurisdiction of the board eligible to vote, a second eligible employee representative shall be elected by the law enforcement officers eligible to vote. If there are no law enforcement officers under the jurisdiction of the board eligible to vote, a second eligible representative shall be elected by the firefighters eligible to vote.

(2) The members of both the county and city disability boards shall not receive compensation for their service upon the boards but the members shall be reimbursed by their respective county or city for all expenses incidental to such service as to the amount authorized by law.

(3) The disability boards authorized for establishment by this section shall perform all functions, exercise all powers, and make all such determinations as specified in this chapter.

Sec. 70. RCW 41.26.150 and 1992 c 22 s 3 are each amended to read as follows:

(1) Whenever any active member, or any member hereafter retired, on account of service, sickness, or disability, not caused or brought on by dissipation or abuse, of which the disability board shall be judge, is confined in any hospital or in home, and whether or not so confined, requires medical services, the employer shall pay for the active or retired member the necessary medical services not payable from some other source as provided for in subsection (2) of this section. In the case of active or retired firefighters the employer may make the payments provided for in this section from the ~~((firemen's))~~ firefighters' pension fund established pursuant to RCW 41.16.050 where the fund had been established prior to March 1, 1970. If this pension fund is depleted, the employer shall have the obligation to pay all benefits payable under chapters 41.16 and 41.18 RCW.

(a) The disability board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the disability board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the disability board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all rights to benefits under this section for the period of the refusal.

(b) The disability board shall designate the medical services available to any sick or disabled member.

(2) The medical services payable under this section will be reduced by any amount received or eligible to be received by the member under workers'

compensation, social security including the changes incorporated under Public Law 89-97, insurance provided by another employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making the payments provided for in subsection (1) of this section, the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for payment of the cost of medical services in connection with a member's sickness or disability to the extent necessary to recover the amount of payments made by the employer.

(4) Any employer under this chapter, either singly, or jointly with any other such employer or employers through an association thereof as provided for in chapter 48.21 RCW, may provide for all or part of one or more plans of group hospitalization and medical aid insurance to cover any of its employees who are members of the Washington law enforcement officers' and firefighters' retirement system, and/or retired former employees who were, before retirement, members of the retirement system, through contracts with regularly constituted insurance carriers, with health maintenance organizations as defined in chapter 48.46 RCW, or with health care service contractors as defined in chapter 48.44 RCW. Benefits payable under ~~((any))~~ the ~~((under the))~~ plan or plans shall be deemed to be amounts received or eligible to be received by the active or retired member under subsection (2) of this section.

(5) Any employer under this chapter may, at its discretion, elect to reimburse a retired former employee under this chapter for premiums the retired former employee has paid for medical insurance that supplements medicare, including premiums the retired former employee has paid for medicare part B coverage.

Sec. 71. RCW 43.06A.010 and 1996 c 131 s 2 are each amended to read as follows:

There is hereby created an office of the family and children's ~~((ombudsman))~~ ombuds within the office of the governor for the purpose of promoting public awareness and understanding of family and children services, identifying system issues and responses for the governor and the legislature to act upon, and monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children's services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences. The ~~((ombudsman))~~ ombuds shall report directly to the governor and shall exercise his or her powers and duties independently of the secretary.

Sec. 72. RCW 43.06A.020 and 1998 c 288 s 7 are each amended to read as follows:

(1) Subject to confirmation by the senate, the governor shall appoint an ~~((ombudsman))~~ ombuds who shall be a person of recognized judgment, independence, objectivity, and integrity, and shall be qualified by training or experience, or both, in family and children's services law and policy. Prior to the appointment, the governor shall consult with, and may receive recommendations from the committee, regarding the selection of the ~~((ombudsman))~~ ombuds.

(2) The person appointed (~~(ombudsman)~~) ombuds shall hold office for a term of three years and shall continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the (~~(ombudsman)~~) ombuds only for neglect of duty, misconduct, or inability to perform duties. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term.

Sec. 73. RCW 43.06A.030 and 1996 c 131 s 4 are each amended to read as follows:

The (~~(ombudsman)~~) ombuds shall perform the following duties:

(1) Provide information as appropriate on the rights and responsibilities of individuals receiving family and children's services, and on the procedures for providing these services;

(2) Investigate, upon his or her own initiative or upon receipt of a complaint, an administrative act alleged to be contrary to law, rule, or policy, imposed without an adequate statement of reason, or based on irrelevant, immaterial, or erroneous grounds; however, the (~~(ombudsman)~~) ombuds may decline to investigate any complaint as provided by rules adopted under this chapter;

(3) Monitor the procedures as established, implemented, and practiced by the department to carry out its responsibilities in delivering family and children's services with a view toward appropriate preservation of families and ensuring children's health and safety;

(4) Review periodically the facilities and procedures of state institutions serving children, and state-licensed facilities or residences;

(5) Recommend changes in the procedures for addressing the needs of families and children;

(6) Submit annually to the committee and to the governor by November 1st a report analyzing the work of the office, including recommendations;

(7) Grant the committee access to all relevant records in the possession of the (~~(ombudsman)~~) ombuds unless prohibited by law; and

(8) Adopt rules necessary to implement this chapter.

Sec. 74. RCW 43.06A.050 and 2005 c 274 s 294 are each amended to read as follows:

The (~~(ombudsman)~~) ombuds shall treat all matters under investigation, including the identities of service recipients, complainants, and individuals from whom information is acquired, as confidential, except as far as disclosures may be necessary to enable the (~~(ombudsman)~~) ombuds to perform the duties of the office and to support any recommendations resulting from an investigation. Upon receipt of information that by law is confidential or privileged, the (~~(ombudsman)~~) ombuds shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law. Investigative records of the office of the (~~(ombudsman)~~) ombuds are confidential and are exempt from public disclosure under chapter 42.56 RCW.

Sec. 75. RCW 43.06A.060 and 1998 c 288 s 1 are each amended to read as follows:

Neither the (~~(ombudsman)~~) ombuds nor the (~~(ombudsman's)~~) ombuds's staff may be compelled, in any judicial or administrative proceeding, to testify or to produce evidence regarding the exercise of the official duties of the

((ombudsman)) ombuds or of the ((ombudsman's)) ombuds's staff. All related memoranda, work product, notes, and case files of the ((ombudsman's)) ombuds's office are confidential, are not subject to discovery, judicial or administrative subpoena, or other method of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding. This section shall not apply to the legislative children's oversight committee.

Sec. 76. RCW 43.06A.070 and 1998 c 288 s 2 are each amended to read as follows:

Identifying information about complainants or witnesses shall not be subject to any method of legal compulsion, nor shall such information be revealed to the legislative children's oversight committee or the governor except under the following circumstances: (1) The complainant or witness waives confidentiality; (2) under a legislative subpoena when there is a legislative investigation for neglect of duty or misconduct by the ((ombudsman)) ombuds or ((ombudsman's)) ombuds's office when the identifying information is necessary to the investigation of the ((ombudsman's)) ombuds's acts; or (3) under an investigation or inquiry by the governor as to neglect of duty or misconduct by the ((ombudsman)) ombuds or ((ombudsman's)) ombuds's office when the identifying information is necessary to the investigation of the ((ombudsman'-(ombudsman's))) ombuds's acts.

For the purposes of this section, "identifying information" includes the complainant's or witness's name, location, telephone number, likeness, social security number or other identification number, or identification of immediate family members.

Sec. 77. RCW 43.06A.080 and 1998 c 288 s 3 are each amended to read as follows:

The privilege described in RCW 43.06A.060 does not apply when:

(1) The ((ombudsman)) ombuds or ((ombudsman's)) ombuds's staff member has direct knowledge of an alleged crime, and the testimony, evidence, or discovery sought is relevant to that allegation;

(2) The ((ombudsman)) ombuds or a member of the ((ombudsman's)) ombuds's staff has received a threat of, or becomes aware of a risk of, imminent serious harm to any person, and the testimony, evidence, or discovery sought is relevant to that threat or risk;

(3) The ((ombudsman)) ombuds has been asked to provide general information regarding the general operation of, or the general processes employed at, the ((ombudsman's)) ombuds's office; or

(4) The ((ombudsman)) ombuds or ((ombudsman's)) ombuds's staff member has direct knowledge of a failure by any person specified in RCW 26.44.030, including the state family and children's ((ombudsman)) ombuds or any volunteer in the ((ombudsman's)) ombuds's office, to comply with RCW 26.44.030.

Sec. 78. RCW 43.06A.085 and 2009 c 88 s 2 are each amended to read as follows:

(1) An employee of the office of the family and children's ((ombudsman)) ombuds is not liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against an employee of the department, an employee of a contracting agency of the department, a foster parent, or a recipient of family and children's services for any communication made, or information given or disclosed, to aid the office of the family and children's ((ombudsman)) ombuds in carrying out its responsibilities, unless the communication or information is made, given, or disclosed maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by an ((ombudsman)) ombuds, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged and that privilege shall serve as a defense in any action in libel or slander.

Sec. 79. RCW 43.06A.090 and 1998 c 288 s 4 are each amended to read as follows:

When the ((ombudsman)) ombuds or ((ombudsman's)) ombuds's staff member has reasonable cause to believe that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the ((ombudsman)) ombuds or ((ombudsman's)) ombuds's staff member shall report the matter, or cause a report to be made, to the appropriate authorities.

Sec. 80. RCW 43.06A.100 and 2008 c 211 s 3 are each amended to read as follows:

The department of social and health services shall:

(1) Allow the ((ombudsman)) ombuds or the ((ombudsman's)) ombuds's designee to communicate privately with any child in the custody of the department for the purposes of carrying out its duties under this chapter;

(2) Permit the ((ombudsman)) ombuds or the ((ombudsman's)) ombuds designee physical access to state institutions serving children, and state licensed facilities or residences for the purpose of carrying out its duties under this chapter;

(3) Upon the ((ombudsman's)) ombuds's request, grant the ((ombudsman)) ombuds or the ((ombudsman's)) ombuds's designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department that the ((ombudsman)) ombuds considers necessary in an investigation; and

(4) Grant the office of the family and children's ((ombudsman)) ombuds unrestricted online access to the case and management information system (CAMIS) or any successor information system for the purpose of carrying out its duties under this chapter.

Sec. 81. RCW 43.06A.110 and 2008 c 211 s 2 are each amended to read as follows:

The office of the family and children's ((ombudsman)) ombuds shall issue an annual report to the legislature on the status of the implementation of child fatality review recommendations.

Sec. 82. RCW 43.06B.010 and 2006 c 116 s 3 are each amended to read as follows:

(1) There is hereby created the office of the education (~~(ombudsman)~~) ombuds within the office of the governor for the purposes of providing information to parents, students, and others regarding their rights and responsibilities with respect to the state's public elementary and secondary education system, and advocating on behalf of elementary and secondary students.

(2)(a) The governor shall appoint an (~~(ombudsman)~~) ombuds who shall be a person of recognized judgment, independence, objectivity, and integrity and shall be qualified by training or experience or both in the following areas:

(i) Public education law and policy in this state;

(ii) Dispute resolution or problem resolution techniques, including mediation and negotiation; and

(iii) Community outreach.

(b) The education (~~(ombudsman)~~) ombuds may not be an employee of any school district, the office of the superintendent of public instruction, or the state board of education while serving as an education (~~(ombudsman)~~) ombuds.

(3) Before the appointment of the education (~~(ombudsman)~~) ombuds, the governor shall share information regarding the appointment to a six-person legislative committee appointed and comprised as follows:

(a) The committee shall consist of three senators and three members of the house of representatives from the legislature.

(b) The senate members of the committee shall be appointed by the president of the senate. Two members shall represent the majority caucus and one member the minority caucus.

(c) The house of representatives members of the committee shall be appointed by the speaker of the house of representatives. Two members shall represent the majority caucus and one member the minority caucus.

(4) If sufficient appropriations are provided, the education (~~(ombudsman)~~) ombuds shall delegate and certify regional education (~~(ombudsmen)~~) ombuds. The education (~~(ombudsman)~~) ombuds shall ensure that the regional (~~(ombudsmen)~~) ombuds selected are appropriate to the community in which they serve and hold the same qualifications as in subsection (2)(a) of this section. The education (~~(ombudsman)~~) ombuds may not contract with the superintendent of public instruction, or any school, school district, or current employee of a school, school district, or the office of the superintendent of public instruction for the provision of regional (~~(ombudsman)~~) ombuds services.

Sec. 83. RCW 43.06B.020 and 2008 c 165 s 2 are each amended to read as follows:

The education (~~(ombudsman)~~) ombuds shall have the following powers and duties:

(1) To develop parental involvement materials, including instructional guides developed to inform parents of the essential academic learning requirements required by the superintendent of public instruction. The instructional guides also shall contain actions parents may take to assist their children in meeting the requirements, and should focus on reaching parents who have not previously been involved with their children's education;

(2) To provide information to students, parents, and interested members of the public regarding this state's public elementary and secondary education system;

(3) To identify obstacles to greater parent and community involvement in school shared decision-making processes and recommend strategies for helping parents and community members to participate effectively in school shared decision-making processes, including understanding and respecting the roles of school building administrators and staff;

(4) To identify and recommend strategies for improving the success rates of ethnic and racial student groups and students with disabilities, with disproportionate academic achievement;

(5) To refer complainants and others to appropriate resources, agencies, or departments;

(6) To facilitate the resolution of complaints made by parents and students with regard to the state's public elementary and secondary education system;

(7) To perform such other functions consistent with the purpose of the education ((~~ombudsman~~)) ombuds; and

(8) To consult with representatives of the following organizations and groups regarding the work of the office of the education ((~~ombudsman~~)) ombuds, including but not limited to:

(a) The state parent teacher association;

(b) Certificated and classified school employees;

(c) School and school district administrators;

(d) Parents of special education students;

(e) Parents of English language learners;

(f) The Washington state commission on Hispanic affairs;

(g) The Washington state commission on African-American affairs;

(h) The Washington state commission on Asian Pacific American affairs;

and

(i) The governor's office of Indian affairs.

Sec. 84. RCW 43.06B.030 and 2006 c 116 s 5 are each amended to read as follows:

(1) Neither the education ((~~ombudsman~~)) ombuds nor any regional educational ((~~ombudsmen~~)) ombuds are liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any student or employee of any school district, the office of the superintendent of public ((~~education [instruction]~~)) instruction, or the state board of education, for any communication made, or information given or disclosed, to aid the education ((~~ombudsman~~)) ombuds in carrying out his or her duties and responsibilities, unless the same was done without good faith or maliciously. This subsection is not intended to infringe upon the rights of a school district to supervise, discipline, or terminate an employee for other reasons or to discipline a student for other reasons.

(3) All communications by the education ((~~ombudsman~~)) ombuds or the ((~~ombudsman's~~)) ombuds's staff or designee, if reasonably related to the education ((~~ombudsman's~~)) ombuds's duties and responsibilities and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander.

Sec. 85. RCW 43.06B.040 and 2006 c 116 s 6 are each amended to read as follows:

The education ((ombudsman)) ombuds shall treat all matters, including the identities of students, complainants, and individuals from whom information is acquired, as confidential, except as necessary to enable the education ((ombudsman)) ombuds to perform the duties of the office. Upon receipt of information that by law is confidential or privileged, the ((ombudsman)) ombuds shall maintain the confidentiality of such information and shall not further disclose or disseminate the information except as provided by applicable state or federal law.

Sec. 86. RCW 43.06B.050 and 2006 c 116 s 7 are each amended to read as follows:

The education ((ombudsman)) ombuds shall report on the work and accomplishment of the office and advise and make recommendations to the governor, the legislature, and the state board of education annually. The initial report to the governor, the legislature, and the state board of education shall be made by September 1, 2007, and there shall be annual reports by September 1st each year thereafter. The annual reports shall provide at least the following information:

- (1) How the education ((ombudsman's)) ombuds's services have been used and by whom;
- (2) Methods for the education ((ombudsman)) ombuds to increase and enhance family and community involvement in public education;
- (3) Recommendations to eliminate barriers and obstacles to meaningful family and community involvement in public education; and
- (4) Strategies to improve the educational opportunities for all students in the state, including recommendations from organizations and groups provided in RCW 43.06B.020(8).

Sec. 87. RCW 43.06B.060 and 2010 c 239 s 3 are each amended to read as follows:

In addition to duties assigned under RCW 43.06B.020, the office of the education ((ombudsman)) ombuds shall serve as the lead agency to provide resources and tools to parents and families about public school antiharassment policies and strategies.

Sec. 88. RCW 43.190.010 and 1983 c 290 s 1 are each amended to read as follows:

The legislature finds that in order to comply with the federal older Americans act and to effectively assist residents, patients, and clients of long-term care facilities in the assertion of their civil and human rights, a long-term care ((ombudsman)) ombuds program should be instituted.

Sec. 89. RCW 43.190.030 and 1997 c 194 s 1 are each amended to read as follows:

There is created the office of the state long-term care ((ombudsman)) ombuds. The department of ((community, trade, and economic development)) commerce shall contract with a private nonprofit organization to provide long-term care ((ombudsman)) ombuds services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The department of ((community, trade, and economic development)) commerce shall ensure that all program and staff support necessary to enable the ((ombudsman)) ombuds to effectively protect the

interests of residents, patients, and clients of all long-term care facilities is provided by the nonprofit organization that contracts to provide long-term care ((~~ombudsman~~)) ombuds services. The department of ((~~community, trade, and economic development~~)) commerce shall adopt rules to carry out this chapter and the long-term care ((~~ombudsman~~)) ombuds provisions of the federal older Americans act, as amended, and applicable federal regulations. The long-term care ((~~ombudsman~~)) ombuds program shall have the following powers and duties:

(1) To provide services for coordinating the activities of long-term care ((~~ombudsmen~~)) ombuds throughout the state;

(2) Carry out such other activities as the department of ((~~community, trade, and economic development~~)) commerce deems appropriate;

(3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ((~~ombudsmen~~)) ombuds to long-term care facilities and patients' records, including procedures to protect the confidentiality of the records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;

(4) Establish a statewide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and health services and to the federal department of health and human services, or its successor agency, on a regular basis; and

(5) Establish procedures to assure that any files maintained by ((~~ombudsman~~)) ombuds programs shall be disclosed only at the discretion of the ((~~ombudsman~~)) ombuds having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ((~~ombudsman~~)) ombuds unless:

(a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(b) Such disclosure is required by court order.

Sec. 90. RCW 43.190.040 and 2002 c 100 s 1 are each amended to read as follows:

(1) Any long-term care ((~~ombudsman~~)) ombuds authorized by this chapter or a local governmental authority shall have training or experience or both in the following areas:

(a) Gerontology, long-term care, or other related social services programs.

(b) The legal system.

(c) Dispute or problem resolution techniques, including investigation, mediation, and negotiation.

(2) A long-term care ((~~ombudsman~~)) ombuds shall not have been employed by or participated in the management of any long-term care facility within the past year.

(3) A long-term care ((~~ombudsman~~)) ombuds shall not have been employed in a governmental position with direct involvement in the licensing, certification, or regulation of long-term care facilities within the past year.

(4) No long-term care ((~~ombudsman~~) ombuds) or any member of his or her immediate family shall have, or have had within the past year, any significant ownership or investment interest in one or more long-term care facilities.

(5) A long-term care ((~~ombudsman~~) ombuds) shall not be assigned to a long-term care facility in which a member of that ((~~ombudsman's~~) ombuds's) immediate family resides.

Sec. 91. RCW 43.190.050 and 1983 c 290 s 5 are each amended to read as follows:

Every long-term care facility shall post in a conspicuous location a notice of the nursing home complaint toll-free number and the name, address, and phone number of the office of the appropriate long-term care ((~~ombudsman~~) ombuds) and a brief description of the services provided by the office. The form of the notice shall be approved by the office and the organization responsible for maintaining the nursing home complaint toll-free number. This information shall also be distributed to the residents, family members, and legal guardians upon the resident's admission to the facility.

Sec. 92. RCW 43.190.060 and 1999 c 133 s 1 are each amended to read as follows:

A long-term care ((~~ombudsman~~) ombuds) shall:

(1) Identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to administrative action, inaction, or decisions which may adversely affect the health, safety, welfare, and rights of these individuals;

(2) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to long-term care facilities in this state;

(3) Provide information as appropriate to residents, resident representatives, and others regarding the rights of residents, and to public agencies regarding the problems of individuals residing in long-term care facilities; and

(4) Provide for training volunteers and promoting the development of citizen organizations to participate in the ((~~ombudsman~~) ombuds) program. A trained volunteer long-term care ((~~ombudsman~~) ombuds), in accordance with the policies and procedures established by the state long-term care ((~~ombudsman~~) ombuds) program, shall inform residents, their representatives, and others about the rights of residents, and may identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities relating to action, inaction, or decisions, that may adversely affect the health, safety, welfare, and rights of these individuals.

Nothing in chapter 133, Laws of 1999 shall be construed to empower the state long-term care ((~~ombudsman~~) ombuds) or any local long-term care ((~~ombudsman~~) ombuds) with statutory or regulatory licensing or sanctioning authority.

Sec. 93. RCW 43.190.065 and 1999 c 133 s 2 are each amended to read as follows:

A local long-term care ((~~ombudsman~~) ombuds), including a trained volunteer long-term care ((~~ombudsman~~) ombuds), shall have the duties and authority set forth in the federal older Americans act (42 U.S.C. Sec. 3058 et seq.) for local ((~~ombudsman~~) ombuds). The state long-term care ((~~ombudsman~~)

ombuds and representatives of the office of the state long-term care ((~~ombudsman~~)) ombuds, shall have the duties and authority set forth in the federal Older Americans Act for the state long-term care ((~~ombudsman~~)) ombuds and representatives of the office of the state long-term care ((~~ombudsman~~)) ombuds.

Sec. 94. RCW 43.190.070 and 1983 c 290 s 7 are each amended to read as follows:

(1) The office of the state long-term care ((~~ombudsman~~)) ombuds shall develop referral procedures for all long-term care ((~~ombudsman~~)) ombuds programs to refer any complaint to any appropriate state or local government agency. The department of social and health services shall act as quickly as possible on any complaint referred to them by a long-term care ((~~ombudsman~~)) ombuds.

(2) The department of social and health services shall respond to any complaint against a long-term care facility which was referred to it by a long-term care ((~~ombudsman~~)) ombuds and shall forward to that ((~~ombudsman~~)) ombuds a summary of the results of the investigation and action proposed or taken.

Sec. 95. RCW 43.190.080 and 1983 c 290 s 8 are each amended to read as follows:

(1) The office of the state long-term care ((~~ombudsman~~)) ombuds shall develop procedures governing the right of entry of all long-term care ((~~ombudsman~~)) ombuds to long-term care facilities and shall have access to residents with provisions made for privacy for the purpose of hearing, investigating, and resolving complaints of, and rendering advice to, individuals who are patients or residents of the facilities at any time deemed necessary and reasonable by the state ((~~ombudsman~~)) ombuds to effectively carry out the provisions of this chapter.

(2) Nothing in this chapter restricts, limits, or increases any existing right of any organizations or individuals not described in subsection (1) of this section to enter or provide assistance to patients or residents of long-term care facilities.

(3) Nothing in this chapter restricts any right or privilege of any patient or resident of a long-term care facility to receive visitors of his or her choice.

Sec. 96. RCW 43.190.090 and 1983 c 290 s 9 are each amended to read as follows:

(1) No long-term care ((~~ombudsman~~)) ombuds is liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any employee of a facility or agency, any patient, resident, or client of a long-term care facility, or any volunteer, for any communication made, or information given or disclosed, to aid the long-term care ((~~ombudsman~~)) ombuds in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by a long-term care ((~~ombudsman~~)) ombuds, if reasonably related to the requirements of that individual's responsibilities under

this chapter and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander.

(4) A representative of the office is exempt from being required to testify in court as to any confidential matters except as the court may deem necessary to enforce this chapter.

Sec. 97. RCW 43.190.110 and 1983 c 290 s 11 are each amended to read as follows:

All records and files of long-term care (~~(ombudsman)~~) ombuds relating to any complaint or investigation made pursuant to carrying out their duties and the identities of complainants, witnesses, patients, or residents shall remain confidential unless disclosure is authorized by the patient or resident or his or her guardian or legal representative. No disclosures may be made outside the office without the consent of any named witnesses, resident, patient, client, or complainant unless the disclosure is made without the identity of any of these individuals being disclosed.

Sec. 98. RCW 43.190.120 and 1983 c 290 s 12 are each amended to read as follows:

It is the intent that federal requirements be complied with and the department annually expend at least one percent of the state's allotment of social services funds from Title III B of the older Americans act of 1965, as it exists as of July 24, 1983, or twenty thousand dollars, whichever is greater to establish the state long-term care (~~(ombudsman)~~) ombuds program established by this chapter if funds are appropriated by the legislature.

Sec. 99. RCW 43.215.520 and 2006 c 209 s 10 are each amended to read as follows:

(1) The department shall establish and maintain a toll-free telephone number, and an interactive web-based system through which persons may obtain information regarding child day care centers and family day care providers. This number shall be available twenty-four hours a day for persons to request information. The department shall respond to recorded messages left at the number within two business days. The number shall be published in reasonably available printed and electronic media. The number shall be easily identifiable as a number through which persons may obtain information regarding child day care centers and family day care providers as set forth in this section.

(2) Through the toll-free telephone line established by this section, the department shall provide information to callers about: (a) Whether a day care provider is licensed; (b) whether a day care provider's license is current; (c) the general nature of any enforcement against the providers; (d) how to report suspected or observed noncompliance with licensing requirements; (e) how to report alleged abuse or neglect in a day care; (f) how to report health, safety, and welfare concerns in a day care; (g) how to receive follow-up assistance, including information on the office of the family and children's (~~(ombudsman)~~) ombuds; and (h) how to receive referral information on other agencies or entities that may be of further assistance to the caller.

(3) Beginning in January 2006, the department shall print the toll-free number established by this section on the face of new licenses issued to child day care centers and family day care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

Sec. 100. RCW 44.04.220 and 1996 c 131 s 1 are each amended to read as follows:

(1) There is created the legislative children's oversight committee for the purpose of monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences. The committee shall consist of three senators and three representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate. The house members of the committee shall be appointed by the speaker of the house. Not more than two members from each chamber shall be from the same political party. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year.

(2) The committee shall have the following powers:

(a) Selection of its officers and adopt rules for orderly procedure;

(b) Request investigations by the ((ombudsman)) ombuds of administrative acts;

(c) Receive reports of the ((ombudsman)) ombuds;

(d)(i) Obtain access to all relevant records in the possession of the ((ombudsman)) ombuds, except as prohibited by law; and (ii) make recommendations to all branches of government;

(e) Request legislation;

(f) Conduct hearings into such matters as it deems necessary.

(3) Upon receipt of records from the ((ombudsman)) ombuds, the committee is subject to the same confidentiality restrictions as the ((ombudsman)) ombuds under RCW 43.06A.050.

Sec. 101. RCW 48.02.093 and 2012 c 150 s 1 are each amended to read as follows:

There is established, within the office of the insurance commissioner, the volunteer position of health care authority ((ombudsman)) ombuds to assist retirees enrolled in the public employees' benefits board program. The volunteer position shall be trained as part of the existing volunteer training provided to the statewide health insurance benefit advisors. The position shall help retirees with questions and concerns, assist the public employees' benefits board program with identification of retiree concerns, and maintain access to updated program information.

Sec. 102. RCW 48.18A.070 and 1994 c 92 s 503 are each amended to read as follows:

Notwithstanding any other provision of law, the commissioner shall have sole and exclusive authority to regulate the issuance and sale of variable contracts; except for the examination, issuance or renewal, suspension or revocation, of a security ((salesman's)) salesperson's license issued to persons selling variable contracts. To carry out the purposes and provisions of this chapter, he or she may independently, and in concert with the director of financial institutions, issue such reasonable rules and regulations as may be appropriate.

Sec. 103. RCW 50.22.010 and 2011 c 4 s 5 are each amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after a week for which there is an "on" indicator; and

(b) Ends with the third week after the first week for which there is an "off" indicator: PROVIDED, That no extended benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of an "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state.

(2)(a) There is an "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks:

((+)) (i) The rate of insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded five percent; or

((+)) (ii) For benefits for weeks of unemployment beginning after March 6, 1993:

((+)) (A) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent; and

((+)) (B) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in ((+)) (i) (A) of this subsection, equals or exceeds one hundred ten percent of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

((+)) (b) This subsection applies as provided under the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection:

(i) The average rate of insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in all of the preceding three calendar years and equaled or exceeded five percent; or

(ii) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent; and

(iii) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in ((+)) (b)(ii) of this subsection, equals or exceeds one hundred ten percent of the average for any of the corresponding three-month periods ending in the three preceding calendar years.

(3)(a) "High unemployment period" means any period of unemployment beginning after March 6, 1993, during which an extended benefit period would be in effect if:

((+)) (i) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent; and

((+)) (ii) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (a)(i) of this subsection, equals or exceeds one hundred ten percent of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

((+)) (b) This subsection applies as provided under the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection(-):

(i) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent; and

(ii) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (a)(i) of this subsection, equals or exceeds one hundred ten percent of the average for any of the corresponding three-month periods ending in the three preceding calendar years.

(4) There is an "off" indicator for this state for a week only if, for the period consisting of such week and immediately preceding twelve weeks, none of the options specified in subsection (2) or (3) of this section result in an "on" indicator.

(5) "Regular benefits" means benefits payable to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

(6) "Extended benefits" means benefits payable for weeks of unemployment beginning in an extended benefit period to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85) other than regular or additional benefits.

(7) "Additional benefits" are benefits totally financed by the state and payable under this title to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(8) "Eligibility period" of an individual means:

(a) The period consisting of the weeks in his or her benefit year which begin in an extended benefit period that is in effect in this state and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period; or

(b) For an individual who is eligible for emergency unemployment compensation during the extended benefit period beginning February 15, 2009,

the period consisting of the week ending February 28, 2009, and applies as provided under the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection.

(9) "Additional benefit eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an additional benefit period that is in effect and, if his or her benefit year ends within such additional benefit period, any weeks thereafter which begin in such period.

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in his or her eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were payable to him or her under this title or any other state law (including dependents' allowances and regular benefits payable to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week; or

(b) Has received, prior to such week, all of the regular benefits that were available to him or her under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week, after the cancellation of some or all of his or her wage credits or the total or partial reduction of his or her rights to regular benefits: PROVIDED, That, for the purposes of (a) and (b) (~~(of this subsection)~~) of this subsection, an individual shall be deemed to have received in his or her current benefit year all of the regular benefits that were payable to him or her, or available to him or her, as the case may be, even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to his or her current benefit year, he or she may subsequently be determined to be entitled to more regular benefits; or

(ii) By reason of the seasonal provisions of another state law, he or she is not entitled to regular benefits with respect to such week of unemployment (although he or she may be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his or her current benefit year), and he or she is otherwise an exhaustee within the meaning of this section with respect to his or her right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or

(iii) Having established a benefit year, no regular benefits are payable to him or her during such year because his or her wage credits were canceled or his or her right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) His or her benefit year having ended prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030

which meets the requirement of section 3304(a)(7) of the federal unemployment tax act, or the similar provision in any other state law; and

(d)(i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of Canada, unless the appropriate agency finally determines that he or she is not entitled to unemployment benefits under such law for such week.

(11) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the internal revenue code of 1954.

Sec. 104. RCW 51.04.063 and 2011 1st sp.s. c 37 s 302 are each amended to read as follows:

(1) Notwithstanding RCW 51.04.060 or any other provision of this title, beginning on January 1, 2012, an injured worker who is at least fifty-five years of age on or after January 1, 2012, fifty-three years of age on or after January 1, 2015, or fifty years of age on or after January 1, 2016, may choose from the following: (a) To continue to receive all benefits for which they are eligible under this title, (b) to participate in vocational training if eligible, or (c) to initiate and agree to a resolution of their claim with a structured settlement.

(2)(a) As provided in this section, the parties to an allowed claim may initiate and agree to resolve a claim with a structured settlement for all benefits other than medical. Parties as defined in (b) of this subsection may only initiate claim resolution structured settlements if at least one hundred eighty days have passed since the claim was received by the department or self-insurer and the order allowing the claim is final and binding. All requirements of this title regarding entitlement to and payment of benefits will apply during this period. All claim resolution structured settlement agreements must be approved by the board of industrial insurance appeals.

(b) For purposes of this section, "parties" means:

(i) For a state fund claim, the worker, the employer, and the department. The employer will not be a party if the costs of the claim or claims are no longer included in the calculation of the employer's experience factor used to determine premiums, if they cannot be located, are no longer in business, or they fail to respond or decline to participate after timely notice of the claim resolution settlement process provided by the board and the department.

(ii) For a self-insured claim, the worker and the employer.

(c) The claim resolution structured settlement agreements shall:

(i) Bind the parties with regard to all aspects of a claim except medical benefits unless revoked by one of the parties as provided in subsection (6) of this section;

(ii) Provide a periodic payment schedule to the worker equal to at least twenty-five percent but not more than one hundred fifty percent of the average monthly wage in the state pursuant to RCW 51.08.018, except for the initial payment which may be up to six times the average monthly wage in the state pursuant to RCW 51.08.018;

(iii) Not set aside or reverse an allowance order;

(iv) Not subject any employer who is not a signatory to the agreement to any responsibility or burden under any claim; and

(v) Not subject any funds covered under this title to any responsibility or burden without prior approval from the director or designee.

(d) For state fund claims, the department shall negotiate the claim resolution structured settlement agreement with the worker or their representative and with the employer or employers and their representative or representatives.

(e) For self-insured claims, the self-insured employer shall negotiate the agreement with the worker or ~~(their)~~ his or her representative. Workers of self-insured employers who are unrepresented may request that the office of the ~~(ombudsman)~~ ombuds for self-insured injured workers provide assistance or be present during negotiations.

(f) Terms of the agreement may include the parties' agreement that the claim shall remain open for future necessary medical or surgical treatment related to the injury where there is a reasonable expectation such treatment is necessary. The parties may also agree that specific future treatment shall be provided without the application required in RCW 51.32.160.

(g) Any claim resolution structured settlement agreement entered into under this section must be in writing and signed by the parties or their representatives and must clearly state that the parties understand and agree to the terms of the agreement.

(h) If a worker is not represented by an attorney at the time of signing a claim resolution structured settlement agreement, the parties must forward a copy of the signed agreement to the board with a request for a conference with an industrial appeals judge. The industrial appeals judge must schedule a conference with all parties within fourteen days for the purpose of (i) reviewing the terms of the proposed settlement agreement by the parties; and (ii) ensuring the worker has an understanding of the benefits generally available under this title and that a claim resolution structured settlement agreement may alter the benefits payable on the claim or claims. The judge may schedule the initial conference for a later date with the consent of the parties.

(i) Before approving the agreement, the industrial appeals judge shall ensure the worker has an adequate understanding of the agreement and its consequences to the worker.

(j) The industrial appeals judge may approve a claim resolution structured settlement agreement only if the judge finds that the agreement is in the best interest of the worker. When determining whether the agreement is in the best interest of the worker, the industrial appeals judge shall consider the following factors, taken as a whole, with no individual factor being determinative:

(i) The nature and extent of the injuries and disabilities of the worker;

(ii) The age and life expectancy of the injured worker;

(iii) Other benefits the injured worker is receiving or is entitled to receive and the effect a claim resolution structured settlement agreement might have on those benefits; and

(iv) The marital or domestic partnership status of the injured worker.

(k) Within seven days after the conference, the industrial appeals judge shall issue an order allowing or rejecting the claim resolution structured settlement agreement. There is no appeal from the industrial appeals judge's decision.

(1) If the industrial appeals judge issues an order allowing the claim resolution structured settlement agreement, the order must be submitted to the board.

(3) Upon receiving the agreement, the board shall approve it within thirty working days of receipt unless it finds that:

(a) The parties have not entered into the agreement knowingly and willingly;

(b) The agreement does not meet the requirements of a claim resolution structured settlement agreement;

(c) The agreement is the result of a material misrepresentation of law or fact;

(d) The agreement is the result of harassment or coercion; or

(e) The agreement is unreasonable as a matter of law.

(4) If a worker is represented by an attorney at the time of signing a claim resolution structured settlement agreement, the parties shall submit the agreement directly to the board without the conference described in this section.

(5) If the board approves the agreement, it shall provide notice to all parties. The department shall place the agreement in the applicable claim file or files.

(6) A party may revoke consent to the claim resolution structured settlement agreement by providing written notice to the other parties and the board within thirty days after the date the agreement is approved by the board.

(7) To the extent the worker is entitled to any benefits while a claim resolution structured settlement agreement is being negotiated or during the revocation period of an agreement, the benefits must be paid pursuant to the requirements of this title until the agreement becomes final.

(8) A claim resolution structured settlement agreement that meets the conditions in this section and that has become final and binding as provided in this section is binding on all parties to the agreement as to its terms and the injuries and occupational diseases to which the agreement applies. A claim resolution structured settlement agreement that has become final and binding is not subject to appeal.

(9) All payments made to a worker pursuant to a final claim resolution structured settlement agreement must be reported to the department as claims costs pursuant to this title. If a self-insured employer contracts with a third-party administrator for claim services and the payment of benefits under this title, the third-party administrator shall also disburse the structured settlement payments pursuant to the agreement.

(10) Claims closed pursuant to a claim resolution structured settlement agreement can be reopened pursuant to RCW 51.32.160 for medical treatment only. Further temporary total, temporary partial, permanent partial, or permanent total benefits are not payable under the same claim or claims for which a claim resolution structured settlement agreement has been approved by the board and has become final.

(11) Parties aggrieved by the failure of any other party to comply with the terms of a claim resolution structured settlement agreement have one year from the date of failure to comply to petition to the board. If the board determines that a party has failed to comply with an agreement, ~~((they))~~ it will order compliance and will impose a penalty payable to the aggrieved party of up to twenty-five percent of the monetary amount unpaid at the time the petition for

noncompliance was filed. The board will also decide on any disputes as to attorneys' fees for services related to claim resolution structured settlement agreements.

(12) Parties and their representatives may not use settlement offers or the claim resolution structured settlement agreement process to harass or coerce any party. If the department determines that an employer has engaged in a pattern of harassment or coercion, the employer may be subject to penalty or corrective action, and may be removed from the retrospective rating program or be decertified from self-insurance under RCW 51.14.030.

Sec. 105. RCW 51.14.300 and 2007 c 281 s 1 are each amended to read as follows:

The office of the ~~((ombudsman))~~ ombuds for workers of industrial insurance self-insured employers is created. The ~~((ombudsman))~~ ombuds shall be appointed by the governor and report directly to the director of the department. The office of the ~~((ombudsman))~~ ombuds may be openly and competitively contracted by the governor in accordance with chapter ~~((39.29))~~ 39.26 RCW but shall not be physically housed within the industrial insurance division.

Sec. 106. RCW 51.14.310 and 2007 c 281 s 2 are each amended to read as follows:

The person appointed ~~((ombudsman))~~ ombuds shall hold office for a term of six years and shall continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the ~~((ombudsman))~~ ombuds only for neglect of duty, misconduct, or inability to perform duties. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term.

Sec. 107. RCW 51.14.320 and 2007 c 281 s 3 are each amended to read as follows:

Any ~~((ombudsman))~~ ombuds appointed under this chapter shall have training or experience, or both, in the following areas:

- (1) Washington state industrial insurance including self-insurance programs;
- (2) The Washington state legal system;
- (3) Dispute or problem resolution techniques, including investigation, mediation, and negotiation.

Sec. 108. RCW 51.14.330 and 2007 c 281 s 4 are each amended to read as follows:

During the first two years after the office of the ~~((ombudsman))~~ ombuds is created, the staffing level shall be no more than four persons, including the ~~((ombudsman))~~ ombuds and any administrative staff. Thereafter, the staffing levels shall be determined based upon the office of the ~~((ombudsman's))~~ ombuds's workload and whether any additional locations are needed.

Sec. 109. RCW 51.14.340 and 2007 c 281 s 5 are each amended to read as follows:

The office of the ~~((ombudsman))~~ ombuds shall have the following powers and duties:

- (1) To act as an advocate for injured workers of self-insured employers;
- (2) To offer and provide information on industrial insurance as appropriate to workers of self-insured employers;

(3) To identify, investigate, and facilitate resolution of industrial insurance complaints from workers of self-insured employers;

(4) To maintain a statewide toll-free telephone number for the receipt of complaints and inquiries; and

(5) To refer complaints to the department when appropriate.

Sec. 110. RCW 51.14.350 and 2007 c 281 s 6 are each amended to read as follows:

(1) The office of the ((~~ombudsman~~)) ombuds shall develop referral procedures for complaints by workers of self-insured employers. The department shall act as quickly as possible on any complaint referred to them by the office of the ((~~ombudsman~~)) ombuds.

(2) The department shall respond to any complaint against a self-insured employer referred to it by the office of the ((~~ombudsman~~)) ombuds and shall forward the office of the ((~~ombudsman~~)) ombuds a summary of the results of the investigation and action proposed or taken.

Sec. 111. RCW 51.14.360 and 2007 c 281 s 7 are each amended to read as follows:

(1) No ((~~ombudsman~~)) ombuds is liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any employee of a self-insured employer for any communication made, or information given or disclosed, to assist the ((~~ombudsman~~)) ombuds in carrying out its duties and responsibilities, unless the same was done maliciously. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by the ((~~ombudsman~~)) ombuds, if reasonably related to the requirements of his or her responsibilities under this chapter and done in good faith, are privileged and confidential, and this shall serve as a defense to any action in libel or slander.

(4) Representatives of the office of the ((~~ombudsman~~)) ombuds are exempt from being required to testify as to any privileged or confidential matters except as the court may deem necessary to enforce this chapter.

Sec. 112. RCW 51.14.370 and 2007 c 281 s 8 are each amended to read as follows:

All records and files of the ((~~ombudsman~~)) ombuds relating to any complaint or investigation made pursuant to carrying out its duties and the identities of complainants, witnesses, or injured workers shall remain confidential unless disclosure is authorized by the complainant or injured worker or his or her guardian or legal representative. No disclosures may be made outside the office of the ((~~ombudsman~~)) ombuds without the consent of any named witness or complainant unless the disclosure is made without the identity of any of these individuals being disclosed.

Sec. 113. RCW 51.14.380 and 2007 c 281 s 9 are each amended to read as follows:

The ((~~ombudsman~~)) ombuds shall integrate into existing posters and brochures information explaining the ((~~ombudsman~~)) ombuds program. Both the posters and the brochures shall contain the ((~~ombudsman's~~)) ombuds's toll-free telephone number. Every self-insured employer must place a poster in an

area where all workers have access to it. The self-insured employer must provide a brochure to all injured workers at the time the employer is notified of the worker's injury.

Sec. 114. RCW 51.14.390 and 2007 c 281 s 10 are each amended to read as follows:

(1) To provide start-up funding for the office of the ((ombudsman)) ombuds, the department shall impose a one-time assessment on all self-insurers. The amount of the assessment shall be determined by the department and shall not exceed the amount needed to pay the start-up costs.

(2) Ongoing funding for the office of the ((ombudsman)) ombuds shall be obtained as part of an annual administrative assessment of self-insurers under RCW 51.44.150. This assessment shall be proportionately based on the number of claims for each self-insurer during the past year.

Sec. 115. RCW 51.14.400 and 2007 c 281 s 12 are each amended to read as follows:

(1) The ((ombudsman)) ombuds shall provide the governor with an annual report that includes the following:

(a) A description of the issues addressed during the past year and a very brief description of case scenarios in a form that does not compromise confidentiality;

(b) An accounting of the monitoring activities by the ((ombudsman)) ombuds; and

(c) An identification of the deficiencies in the industrial insurance system related to self-insurers, if any, and recommendations for remedial action in policy or practice.

(2) The first annual report shall be due on or before October 1, 2008. Subsequent reports shall be due on or before October 1st.

Sec. 116. RCW 51.44.150 and 2007 c 281 s 11 are each amended to read as follows:

The director shall impose and collect assessments each fiscal year upon all self-insurers in the amount of the estimated costs of administering their portion of this title during such fiscal year. These assessments shall also include the assessments for the ((ombudsman's)) ombuds's office provided for in RCW 51.14.390. The time and manner of imposing and collecting assessments due the department shall be set forth in regulations promulgated by the director in accordance with chapter 34.05 RCW.

Sec. 117. RCW 59.20.210 and 1999 c 359 s 16 are each amended to read as follows:

(1) If at any time during the tenancy, the landlord fails to carry out any of the duties imposed by RCW 59.20.130, and notice of the defect is given to the landlord pursuant to RCW 59.20.200, the tenant may submit to the landlord or the landlord's designated agent by certified mail or in person at least two bids to perform the repairs necessary to correct the defective condition from licensed or registered persons, or if no licensing or registration requirement applies to the type of work to be performed, from responsible persons capable of performing such repairs. Such bids may be submitted to the landlord at the same time as notice is given pursuant to RCW 59.20.200.

(2) If the landlord fails to commence repair of the defective condition within a reasonable time after receipt of notice from the tenant, the tenant may contract with the person submitting the lowest bid to make the repair, and upon the completion of the repair and an opportunity for inspection by the landlord or the landlord's designated agent, the tenant may deduct the cost of repair from the rent in an amount not to exceed the sum expressed in dollars representing one month's rental of the tenant's mobile home space in any calendar year. When, however, the landlord is required to begin remedying the defective condition within thirty days under RCW 59.20.200, the tenant cannot contract for repairs for at least fifteen days following receipt of bids by the landlord. The total costs of repairs deducted by the tenant in any calendar year under this subsection shall not exceed the sum expressed in dollars representing one month's rental of the tenant's mobile home space.

(3) Two or more tenants shall not collectively initiate remedies under this section. Remedial action under this section shall not be initiated for conditions in the design or construction existing in a mobile home park before June 7, 1984.

(4) The provisions of this section shall not:

(a) Create a relationship of employer and employee between landlord and tenant; or

(b) Create liability under the worker's compensation act; or

(c) Constitute the tenant as an agent of the landlord for the purposes of mechanics' and (~~materialmen's~~) material suppliers' liens under chapter 60.04 RCW.

(5) Any repair work performed under this section shall comply with the requirements imposed by any applicable code, statute, ordinance, or rule. A landlord whose property is damaged because of repairs performed in a negligent manner may recover the actual damages in an action against the tenant.

(6) Nothing in this section shall prevent the tenant from agreeing with the landlord to undertake the repairs in return for cash payment or a reasonable reduction in rent, the agreement to be between the parties, and this agreement does not alter the landlord's obligations under this chapter.

Sec. 118. RCW 60.13.010 and 2012 c 106 s 1 are each reenacted and amended to read as follows:

As used in this chapter, the terms defined in this section have the meanings indicated unless the context clearly requires otherwise.

(1) "Agricultural product" means any unprocessed horticultural, vermicultural and its by-products, viticultural, berry, poultry, poultry product, grain, bee, or other agricultural products, and includes mint or mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form and livestock. When used in RCW 60.13.020, "agricultural product" means horticultural, viticultural, aquacultural, or berry products, hay and straw, milk and milk products, vegetable seed, or turf and forage seed and applies only when such products are delivered to a processor or conditioner in an unprocessed form.

(2) "Commercial (~~fisherman~~) fisher" means a person licensed to fish commercially for or to take food fish or shellfish or steelhead legally caught pursuant to executive order, treaty right, or federal statute.

(3) "Conditioner," "consignor," "person," and "producer" have the meanings defined in RCW 20.01.010.

(4) "Delivers" means that a producer completes the performance of all contractual obligations with reference to the transfer of actual or constructive possession or control of an agricultural product to a processor or conditioner or preparer, regardless of whether the processor or conditioner or preparer takes physical possession.

(5) "Fish" means food fish or shellfish or steelhead legally caught pursuant to executive order, treaty right, or federal statute.

(6) "Preparer" means a person engaged in the business of feeding livestock or preparing livestock products for market.

(7) "Processor" means any person, firm, company, or other organization that purchases agricultural products except milk and milk products from a consignor and that cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes those crops in any manner whatsoever for eventual resale, or that purchases or markets milk from a dairy producer and is obligated to remit payment to such dairy producer directly.

(8) "Vinifera grapes" means the agricultural product commonly known as *Vitis vinifera* and those hybrid of *Vitis vinifera* that have predominantly the character of *Vitis vinifera*.

(9) "Wine producer" means any person or other entity licensed under Title 66 RCW to produce within the state wine from vinifera grapes.

Sec. 119. RCW 60.13.020 and 1987 c 148 s 2 are each amended to read as follows:

Starting on the date a producer delivers any agricultural product to a processor or conditioner, the producer has a first priority statutory lien, referred to as a "processor lien." A commercial ((fisherman)) fisher who delivers fish to a processor also has a first priority statutory "processor lien" starting on the date the ((fisherman)) fisher delivers fish to the processor. This processor lien shall continue until twenty days after payment for the product is due and remains unpaid, without filing any notice of lien, for the contract price, if any, or the fair market value of the products delivered. The processor lien attaches to the agricultural products or fish delivered, to the processor's or conditioner's inventory, and to the processor's or conditioner's accounts receivable. However, no processor lien may attach to agricultural products or fish delivered by a producer or commercial ((fisherman)) fisher, or on the producer's or ((fisherman's)) fisher's behalf, to a processor which is organized and operated on a cooperative basis and of which the producer or ((fisherman)) fisher is a member, nor may such lien attach to such processor's inventory or accounts receivable.

Sec. 120. RCW 60.13.040 and 2012 c 106 s 3 are each amended to read as follows:

(1) A producer or commercial ((fisherman)) fisher claiming a wine producer, processor, or preparer lien may file a statement evidencing the lien with the department of licensing after payment from the wine producer, processor, conditioner, or preparer to the producer or ((fisherman)) fisher is due and remains unpaid. For purposes of this subsection and RCW 60.13.050, payment is due on the date specified in the contract, or if not specified, then within thirty days from time of delivery.

(2) The statement shall be in a record, authenticated by the producer or ((fisherman)) fisher, and shall contain in substance the following information:

(a) A true statement or a reasonable estimate of the amount demanded after deducting all credits and offsets;

(b) The name of the wine producer, processor, conditioner, or preparer who received the agricultural product or fish to be charged with the lien;

(c) A description sufficient to identify the agricultural product or fish to be charged with the lien;

(d) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien;

(e) The date on which payment was due for the agricultural product or fish to be charged with the lien; and

(f) The department of licensing may by rule prescribe standard filing forms, fees, and uniform procedures for filing with, and obtaining information from, filing officers.

Sec. 121. RCW 60.13.050 and 1987 c 148 s 4 are each amended to read as follows:

(1)(a) If a statement is filed pursuant to RCW 60.13.040 within twenty days of the date upon which payment from the processor, conditioner, or preparer to the producer or commercial ((fisherman)) fisher is due and remains unpaid, the processor or preparer lien evidenced by the statement continues its priority over all other liens or security interests upon agricultural products or fish, inventory, and accounts receivable, except as provided in (b) of this subsection. Such priority is without regard to whether the other liens or security interests attached before or after the date on which the processor or preparer lien attached.

(b) The processor or preparer lien shall be subordinate to liens for taxes or labor perfected before filing of the processor or preparer lien.

(2) If the statement provided for in RCW 60.13.040 is not filed within twenty days of the date payment is due and remains unpaid, the processor or preparer lien shall thereupon become subordinate to:

(a) A lien that has attached to the agricultural product or fish, inventory, or accounts receivable before the date on which the processor or preparer lien attaches; and

(b) A perfected security interest in the agricultural product or fish, inventory, or accounts receivable.

Sec. 122. RCW 60.13.060 and 2012 c 106 s 5 are each amended to read as follows:

(1) The wine producer or processor lien shall terminate twelve months after, and the preparer lien shall terminate fifty days after, the later of the date of attachment or filing, unless a suit to foreclose the lien has been filed before that time as provided in RCW 60.13.070.

(2) If a statement has been filed as provided in RCW 60.13.040 and the producer or commercial ((fisherman)) fisher has received payment for the obligation secured by the lien, the producer or ((fisherman)) fisher shall promptly file with the department of licensing a statement declaring that full payment has been received and that the lien is discharged. If, after payment, the producer or ((fisherman)) fisher fails to file such statement of discharge within ten days following a request to do so, the producer or ((fisherman)) fisher shall

be liable to the wine producer, processor, conditioner, or preparer in the sum of one hundred dollars plus actual damages caused by the failure.

Sec. 123. RCW 60.36.030 and 1901 c 75 s 1 are each amended to read as follows:

All steamers, vessels, and boats, their tackle, apparel, and furniture shall be held liable at all ports and places within this state or within the jurisdiction of the courts of this state or within the jurisdiction of the courts of the United States in said state for services rendered by stevedores, (~~longshoremen~~) longshore workers, or others engaged in the loading, unloading, stowing, or dunnaging of cargo in or from any steamer, vessel, or boat in any harbor or at any other place within said state, or within the jurisdiction of the courts thereof as above stated, and said steamers, vessels, and boats shall further be liable as per their contracts for all services performed upon wharfs or landing places by stevedores, (~~longshoremen~~) longshore workers, or others: PROVIDED, That such services must have been so performed in and about and be connected with the loading, unloading, dunnaging, or stowing of said cargo.

Sec. 124. RCW 60.36.040 and 1901 c 75 s 2 are each amended to read as follows:

Demands for wages and all sums due under contracts or otherwise for the performance of all or any of the services mentioned in RCW 60.36.030 shall constitute liens upon all steamers, vessels, and boats, their tackle, apparel, and furniture, and shall have priority over all other demands save and excepting the demands mentioned in RCW 60.36.010 (1), (2), and (3), to which said demands the lien hereby provided shall be subordinate: PROVIDED, That such liens shall only continue in force for the period of three years from the date when such work was done or the last services performed by such stevedores, (~~longshoremen~~) longshore workers, or others.

Sec. 125. RCW 60.42.040 and 1997 c 315 s 5 are each amended to read as follows:

All statutory liens, consensual liens, mortgages, deeds of trust, assignments of rents, and other encumbrances, including all advances or charges made or accruing thereunder, whether voluntary or obligatory, and all modifications, extensions, renewals, and replacements thereof, recorded prior to the recording of a notice of claim of lien against proceeds have priority over a lien created under this chapter. A prior recorded lien includes, without limitation, a valid (~~materialmen's~~) material supplier's or mechanic's lien claim that is recorded after the recording of the broker's notice of claim of lien against proceeds but which relates back to a date prior to the recording date of the broker's notice of claim of lien against proceeds.

Sec. 126. RCW 62A.2-201 and 1965 ex.s c 157 s 2-201 are each amended to read as follows:

(1) Except as otherwise provided in this section, a contract for the sale of goods for the price of five hundred dollars or more is not enforceable by way of action or defense unless there is some writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his or her authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed

upon but the contract is not enforceable under this paragraph beyond the quantity of goods shown in such writing.

(2) Between merchants if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) of this section against such party unless written notice of objection to its contents is given within ten days after it is received.

(3) A contract which does not satisfy the requirements of subsection (1) of this section but which is valid in other respects is enforceable:

(a) If the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances which reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) If the party against whom enforcement is sought admits in his or her pleading, testimony, or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) With respect to goods for which payment has been made and accepted or which have been received and accepted (RCW 62A.2-606).

Sec. 127. RCW 62A.2-210 and 2000 c 250 s 9A-804 are each amended to read as follows:

(1) A party may perform his or her duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having his or her original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Except as otherwise provided in RCW 62A.9A-406, unless otherwise agreed, all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him or her by his or her contract, or impair materially his or her chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his or her entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) of this section unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but ~~((+))~~ (a) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and ~~((+))~~ (b) a court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4) Unless the circumstances indicate the contrary, a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by him or her to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to his or her rights against the assignor demand assurances from the assignee (RCW 62A.2-609).

(7) Notwithstanding subsections (2) and (3) of this section, an assignment that would be a breach but for the provisions of RCW 62A.9A-406 may create reasonable grounds for insecurity with respect to the due performance of the assignor (RCW 62A.2-609).

Sec. 128. RCW 62A.2-304 and 1965 ex.s. c 157 s 2-304 are each amended to read as follows:

(1) The price can be made payable in money or otherwise. If it is payable in whole or in part in goods each party is a seller of the goods which he or she is to transfer.

(2) Even though all or part of the price is payable in an interest in realty the transfer of the goods and the seller's obligations with reference to them are subject to this Article, but not the transfer of the interest in realty or the transferor's obligations in connection therewith.

Sec. 129. RCW 62A.2-305 and 1965 ex.s. c 157 s 2-305 are each amended to read as follows:

(1) The parties if they so intend can conclude a contract for sale even though the price is not settled. In such a case, the price is a reasonable price at the time for delivery if:

(a) Nothing is said as to price; or

(b) The price is left to be agreed by the parties and they fail to agree; or

(c) The price is to be fixed in terms of some agreed market or other standard as set or recorded by a third person or agency and it is not so set or recorded.

(2) A price to be fixed by the seller or by the buyer means a price for him or her to fix in good faith.

(3) When a price left to be fixed otherwise than by agreement of the parties fails to be fixed through fault of one party the other may at his or her option treat the contract as canceled or himself or herself fix a reasonable price.

(4) Where, however, the parties intend not to be bound unless the price be fixed or agreed and it is not fixed or agreed there is no contract. In such a case, the buyer must return any goods already received or if unable so to do must pay their reasonable value at the time of delivery and the seller must return any portion of the price paid on account.

Sec. 130. RCW 62A.2-308 and 1965 ex.s. c 157 s 2-308 are each amended to read as follows:

Unless otherwise agreed:

(a) The place for delivery of goods is the seller's place of business or if he or she has none his or her residence; but

(b) In a contract for sale of identified goods which to the knowledge of the parties at the time of contracting are in some other place, that place is the place for their delivery; and

(c) Documents of title may be delivered through customary banking channels.

Sec. 131. RCW 62A.2-311 and 1965 ex.s. c 157 s 2-311 are each amended to read as follows:

(1) An agreement for sale which is otherwise sufficiently definite ((~~subsection (3) of~~) RCW 62A.2-204(3)) to be a contract is not made invalid by the fact that it leaves particulars of performance to be specified by one of the parties. Any such specification must be made in good faith and within limits set by commercial reasonableness.

(2) Unless otherwise agreed, specifications relating to assortment of the goods are at the buyer's option and except as otherwise provided in ((~~subsections (1)(c) and (3) of~~) RCW 62A.2-319 (1)(c) and (3)) specifications or arrangements relating to shipment are at the seller's option.

(3) Where such specification would materially affect the other party's performance but is not seasonably made or where one party's cooperation is necessary to the agreed performance of the other but is not seasonably forthcoming, the other party in addition to all other remedies:

(a) Is excused for any resulting delay in his or her own performance; and

(b) May also either proceed to perform in any reasonable manner or after the time for a material part of his or her own performance treat the failure to specify or to cooperate as a breach by failure to deliver or accept the goods.

Sec. 132. RCW 62A.2-312 and 1965 ex.s. c 157 s 2-312 are each amended to read as follows:

(1) Subject to subsection (2) of this section, there is in a contract for sale a warranty by the seller that:

(a) The title conveyed shall be good, and its transfer rightful; and

(b) The goods shall be delivered free from any security interest or other lien or encumbrance of which the buyer at the time of contracting has no knowledge.

(2) A warranty under subsection (1) of this section will be excluded or modified only by specific language or by circumstances which give the buyer reason to know that the person selling does not claim title in himself or herself or that he or she is purporting to sell only such right or title as he or she or a third person may have.

(3) Unless otherwise agreed, a seller who is a merchant regularly dealing in goods of the kind warrants that the goods shall be delivered free of the rightful claim of any third person by way of infringement or the like but a buyer who furnishes specifications to the seller must hold the seller harmless against any such claim which arises out of compliance with the specifications.

Sec. 133. RCW 62A.2-313 and 1965 ex.s. c 157 s 2-313 are each amended to read as follows:

(1) Express warranties by the seller are created as follows:

(a) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.

(b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.

(c) Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model.

(2) It is not necessary to the creation of an express warranty that the seller use formal words such as "warrant" or "guarantee" or that he or she have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the seller's opinion or commendation of the goods does not create a warranty.

Sec. 134. RCW 62A.2-316 and 1982 c 199 s 1 are each amended to read as follows:

(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this Article on parol or extrinsic evidence (RCW 62A.2-202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(2) Subject to subsection (3) of this section, to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that "There are no warranties which extend beyond the description on the face hereof."

(3) Notwithstanding subsection (2) of this section:

(a) Unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is," "with all faults," or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty; and

(b) When the buyer before entering into the contract has examined the goods or the sample or model as fully as he or she desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him or her;

(c) An implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade; and

(d) In sales of livestock, including but not limited to, horses, mules, cattle, sheep, swine, goats, poultry, and rabbits, there are no implied warranties as defined in this article that the livestock are free from sickness or disease: PROVIDED, That the seller has complied with all state and federal laws and regulations that apply to animal health and disease, and the seller is not guilty of fraud, deceit, or misrepresentation.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section and the provisions of RCW 62A.2-719, as now or hereafter amended, in any case where goods are purchased primarily for personal, family, or household use and not for commercial or business use, disclaimers of the warranty of

merchantability or fitness for particular purpose shall not be effective to limit the liability of merchant sellers except insofar as the disclaimer sets forth with particularity the qualities and characteristics which are not being warranted. Remedies for breach of warranty can be limited in accordance with the provisions of this Article on liquidation or limitation of damages and on contractual modification of remedy (RCW 62A.2-718 and RCW 62A.2-719).

Sec. 135. RCW 62A.2-318 and 1965 ex.s. c 157 s 2-318 are each amended to read as follows:

A seller's warranty whether express or implied extends to any natural person who is in the family or household of his or her buyer or who is a guest in his or her home if it is reasonable to expect that such person may use, consume, or be affected by the goods and who is injured in person by breach of the warranty. A seller may not exclude or limit the operation of this section.

Sec. 136. RCW 62A.2-319 and 1965 ex.s. c 157 s 2-319 are each amended to read as follows:

(1) Unless otherwise agreed, the term F.O.B. (which means "free on board") at a named place, even though used only in connection with the stated price, is a delivery term under which:

(a) When the term is F.O.B. the place of shipment, the seller must at that place ship the goods in the manner provided in this Article (RCW 62A.2-504) and bear the expense and risk of putting them into the possession of the carrier; or

(b) When the term is F.O.B. the place of destination, the seller must at his or her own expense and risk transport the goods to that place and there tender delivery of them in the manner provided in this Article (RCW 62A.2-503);

(c) When under either (a) or (b) of this subsection the term is also F.O.B. vessel, car, or other vehicle, the seller must in addition at his or her own expense and risk load the goods on board. If the term is F.O.B. vessel, the buyer must name the vessel and in an appropriate case the seller must comply with the provisions of this Article on the form of bill of lading (RCW 62A.2-323).

(2) Unless otherwise agreed the term F.A.S. vessel (which means "free alongside") at a named port, even though used only in connection with the stated price, is a delivery term under which the seller must:

(a) At his or her own expense and risk deliver the goods alongside the vessel in the manner usual in that port or on a dock designated and provided by the buyer; and

(b) Obtain and tender a receipt for the goods in exchange for which the carrier is under a duty to issue a bill of lading.

(3) Unless otherwise agreed, in any case falling within subsection (1)(a) or (c) or (~~subsection~~) (2) of this section, the buyer must seasonably give any needed instructions for making delivery, including when the term is F.A.S. or F.O.B. the loading berth of the vessel and in an appropriate case its name and sailing date. The seller may treat the failure of needed instructions as a failure of cooperation under this Article (RCW 62A.2-311). He or she may also at his or her option move the goods in any reasonable manner preparatory to delivery or shipment.

(4) Under the term F.O.B. vessel or F.A.S., unless otherwise agreed, the buyer must make payment against tender of the required documents and the

seller may not tender nor the buyer demand delivery of the goods in substitution for the documents.

Sec. 137. RCW 62A.2-320 and 1965 ex.s. c 157 s 2-320 are each amended to read as follows:

(1) The term C.I.F. means that the price includes in a lump sum the cost of the goods and the insurance and freight to the named destination. The term C.&F. or C.F. means that the price so includes cost and freight to the named destination.

(2) Unless otherwise agreed and even though used only in connection with the stated price and destination, the term C.I.F. destination or its equivalent requires the seller at his or her own expense and risk to:

(a) Put the goods into the possession of a carrier at the port for shipment and obtain a negotiable bill or bills of lading covering the entire transportation to the named destination; and

(b) Load the goods and obtain a receipt from the carrier (which may be contained in the bill of lading) showing that the freight has been paid or provided for; and

(c) Obtain a policy or certificate of insurance, including any war risk insurance, of a kind and on terms then current at the port of shipment in the usual amount, in the currency of the contract, shown to cover the same goods covered by the bill of lading and providing for payment of loss to the order of the buyer or for the account of whom it may concern; but the seller may add to the price the amount of the premium for any such war risk insurance; and

(d) Prepare an invoice of the goods and procure any other documents required to effect shipment or to comply with the contract; and

(e) Forward and tender with commercial promptness all the documents in due form and with any indorsement necessary to perfect the buyer's rights.

(3) Unless otherwise agreed, the term C.&F. or its equivalent has the same effect and imposes upon the seller the same obligations and risks as a C.I.F. term except the obligation as to insurance.

(4) Under the term C.I.F. or C.&F., unless otherwise agreed, the buyer must make payment against tender of the required documents and the seller may not tender nor the buyer demand delivery of the goods in substitution for the documents.

Sec. 138. RCW 62A.2-324 and 1965 ex.s. c 157 s 2-324 are each amended to read as follows:

Under a term "no arrival, no sale" or terms of like meaning, unless otherwise agreed((?));

(a) The seller must properly ship conforming goods and if they arrive by any means he or she must tender them on arrival but he or she assumes no obligation that the goods will arrive unless he or she has caused the nonarrival; and

(b) Where without fault of the seller the goods are in part lost or have so deteriorated as no longer to conform to the contract or arrive after the contract time, the buyer may proceed as if there had been casualty to identified goods (RCW 62A.2-613).

Sec. 139. RCW 62A.2-325 and 1965 ex.s. c 157 s 2-325 are each amended to read as follows:

(1) Failure of the buyer seasonably to furnish an agreed letter of credit is a breach of the contract for sale.

(2) The delivery to seller of a proper letter of credit suspends the buyer's obligation to pay. If the letter of credit is dishonored, the seller may on reasonable notification to the buyer require payment directly from him or her.

(3) Unless otherwise agreed, the term "letter of credit" or "banker's credit" in a contract for sale means an irrevocable credit issued by a financing agency of good repute and, where the shipment is overseas, of good international repute. The term "confirmed credit" means that the credit must also carry the direct obligation of such an agency which does business in the seller's financial market.

Sec. 140. RCW 62A.2-328 and 1965 ex.s. c 157 s 2-328 are each amended to read as follows:

(1) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.

(2) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid the auctioneer may in his or her discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling.

(3) Such a sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve, the auctioneer may withdraw the goods at any time until he or she announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract his or her bid until the auctioneer's announcement of completion of the sale, but a bidder's retraction does not revive any previous bid.

(4) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at his or her option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection shall not apply to any bid at a forced sale.

Sec. 141. RCW 62A.2-402 and 1965 ex.s. c 157 s 2-402 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, rights of unsecured creditors of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under this Article (RCW 62A.2-502 and RCW 62A.2-716).

(2) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against him or her a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(3) Nothing in this Article shall be deemed to impair the rights of creditors of the seller:

(a) Under the provisions of the Article on Secured Transactions (Article 9A); or

(b) Where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a preexisting claim for money, security, or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from this Article constitute the transaction a fraudulent transfer or voidable preference.

Sec. 142. RCW 62A.2-501 and 1965 ex.s. c 157 s 2-501 are each amended to read as follows:

(1) The buyer obtains a special property and an insurable interest in goods by identification of existing goods as goods to which the contract refers even though the goods so identified are nonconforming and he or she has an option to return or reject them. Such identification can be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement, identification occurs:

(a) When the contract is made if it is for the sale of goods already existing and identified;

(b) If the contract is for the sale of future goods other than those described in ~~((paragraph))~~ (c) of this subsection, when goods are shipped, marked, or otherwise designated by the seller as goods to which the contract refers;

(c) When the crops are planted or otherwise become growing crops or the young are conceived if the contract is for the sale of unborn young to be born within twelve months after contracting or for the sale of crops to be harvested within twelve months or the next normal harvest season after contracting whichever is longer.

(2) The seller retains an insurable interest in goods so long as title to or any security interest in the goods remains in him or her and where the identification is by the seller alone he or she may until default or insolvency or notification to the buyer that the identification is final substitute other goods for those identified.

(3) Nothing in this section impairs any insurable interest recognized under any other statute or rule of law.

Sec. 143. RCW 62A.2-502 and 2000 c 250 s 9A-806 are each amended to read as follows:

(1) Subject to subsections (2) and (3) of this section and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which he or she has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if:

(a) In the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

(b) In all cases, the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under subsection (1)(a) of this section vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

(3) If the identification creating his or her special property has been made by the buyer, he or she acquires the right to recover the goods only if they conform to the contract for sale.

Sec. 144. RCW 62A.2-504 and 1965 ex.s. c 157 s 2-504 are each amended to read as follows:

Where the seller is required or authorized to send the goods to the buyer and the contract does not require him or her to deliver them at a particular destination, then unless otherwise agreed he or she must:

(a) Put the goods in the possession of such a carrier and make such a contract for their transportation as may be reasonable having regard to the nature of the goods and other circumstances of the case; and

(b) Obtain and promptly deliver or tender in due form any document necessary to enable the buyer to obtain possession of the goods or otherwise required by the agreement or by usage of trade; and

(c) Promptly notify the buyer of the shipment. Failure to notify the buyer under ~~((paragraph (e)))~~ this subsection or to make a proper contract under ~~((paragraph (a)))~~ subsection (a) of this section is a ground for rejection only if material delay or loss ensues.

Sec. 145. RCW 62A.2-507 and 1965 ex.s. c 157 s 2-507 are each amended to read as follows:

(1) Tender of delivery is a condition to the buyer's duty to accept the goods and, unless otherwise agreed, to his or her duty to pay for them. Tender entitles the seller to acceptance of the goods and to payment according to the contract.

(2) Where payment is due and demanded on the delivery to the buyer of goods or documents of title, his or her right as against the seller to retain or dispose of them is conditional upon his or her making the payment due.

Sec. 146. RCW 62A.2-508 and 1965 ex.s. c 157 s 2-508 are each amended to read as follows:

(1) Where any tender or delivery by the seller is rejected because nonconforming and the time for performance has not yet expired, the seller may seasonably notify the buyer of his or her intention to cure and may then within the contract time make a conforming delivery.

(2) Where the buyer rejects a nonconforming tender which the seller had reasonable grounds to believe would be acceptable with or without money allowance, the seller may if he or she seasonably notifies the buyer have a further reasonable time to substitute a conforming tender.

Sec. 147. RCW 62A.2-510 and 1965 ex.s. c 157 s 2-510 are each amended to read as follows:

(1) Where a tender or delivery of goods so fails to conform to the contract as to give a right of rejection, the risk of their loss remains on the seller until cure or acceptance.

(2) Where the buyer rightfully revokes acceptance, he or she may to the extent of any deficiency in his or her effective insurance coverage treat the risk of loss as having rested on the seller from the beginning.

(3) Where the buyer as to conforming goods already identified to the contract for sale repudiates or is otherwise in breach before risk of their loss has passed to him or her, the seller may to the extent of any deficiency in his or her effective insurance coverage treat the risk of loss as resting on the buyer for a commercially reasonable time.

Sec. 148. RCW 62A.2-602 and 1965 ex.s. c 157 s 2-602 are each amended to read as follows:

(1) Rejection of goods must be within a reasonable time after their delivery or tender. It is ineffective unless the buyer seasonably notifies the seller.

(2) Subject to the provisions of the two following sections on rejected goods (RCW 62A.2-603 and RCW 62A.2-604)(~~(2)~~):

(a) After rejection, any exercise of ownership by the buyer with respect to any commercial unit is wrongful as against the seller; and

(b) If the buyer has before rejection taken physical possession of goods in which he or she does not have a security interest under the provisions of this Article (~~((subsection (3) of))~~ RCW 62A.2-711(3)), he or she is under a duty after rejection to hold them with reasonable care at the seller's disposition for a time sufficient to permit the seller to remove them; but

(c) The buyer has no further obligations with regard to goods rightfully rejected.

(3) The seller's rights with respect to goods wrongfully rejected are governed by the provisions of this Article on seller's remedies in general (RCW 62A.2-703).

Sec. 149. RCW 62A.2-603 and 1965 ex.s. c 157 s 2-603 are each amended to read as follows:

(1) Subject to any security interest in the buyer (~~((subsection (3) of))~~ RCW 62A.2-711(3)), when the seller has no agent or place of business at the market of rejection a merchant buyer is under a duty after rejection of goods in his or her possession or control to follow any reasonable instructions received from the seller with respect to the goods and in the absence of such instructions to make reasonable efforts to sell them for the seller's account if they are perishable or threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

(2) When the buyer sells goods under subsection (1) of this section, he or she is entitled to reimbursement from the seller or out of the proceeds for reasonable expenses of caring for and selling them, and if the expenses include no selling commission then to such commission as is usual in the trade or if there is none to a reasonable sum not exceeding ten per cent on the gross proceeds.

(3) In complying with this section, the buyer is held only to good faith and good faith conduct hereunder is neither acceptance nor conversion nor the basis of an action for damages.

Sec. 150. RCW 62A.2-604 and 1965 ex.s. c 157 s 2-604 are each amended to read as follows:

Subject to the provisions of the immediately preceding section on perishables, if the seller gives no instructions within a reasonable time after notification of rejection, the buyer may store the rejected goods for the seller's account or reship them to him or her or resell them for the seller's account with reimbursement as provided in the preceding section. Such action is not acceptance or conversion.

Sec. 151. RCW 62A.2-606 and 1965 ex.s. c 157 s 2-606 are each amended to read as follows:

(1) Acceptance of goods occurs when the buyer:

(a) After a reasonable opportunity to inspect the goods signifies to the seller that the goods are conforming or that he or she will take or retain them in spite of their nonconformity; or

(b) ~~Fails to make an effective rejection ((subsection (1) of))~~ RCW 62A.2-602(1), but such acceptance does not occur until the buyer has had a reasonable opportunity to inspect them; or

(c) Does any act inconsistent with the seller's ownership; but if such act is wrongful as against the seller it is an acceptance only if ratified by him or her.

(2) Acceptance of a part of any commercial unit is acceptance of that entire unit.

Sec. 152. RCW 62A.2-607 and 1965 ex.s. c 157 s 2-607 are each amended to read as follows:

(1) The buyer must pay at the contract rate for any goods accepted.

(2) Acceptance of goods by the buyer precludes rejection of the goods accepted and if made with knowledge of a nonconformity cannot be revoked because of it unless the acceptance was on the reasonable assumption that the nonconformity would be seasonably cured but acceptance does not of itself impair any other remedy provided by this Article for nonconformity.

(3) Where a tender has been accepted:

(a) The buyer must within a reasonable time after he or she discovers or should have discovered any breach notify the seller of breach or be barred from any remedy; and

(b) If the claim is one for infringement or the like (~~((subsection (3) of))~~ RCW 62A.2-312(3)) and the buyer is sued as a result of such a breach, he or she must so notify the seller within a reasonable time after he or she receives notice of the litigation or be barred from any remedy over for liability established by the litigation.

(4) The burden is on the buyer to establish any breach with respect to the goods accepted.

(5) Where the buyer is sued for breach of a warranty or other obligation for which his or her seller is answerable over:

(a) He or she may give his or her seller written notice of the litigation. If the notice states that the seller may come in and defend and that if the seller does not do so he or she will be bound in any action against him or her by his or her buyer by any determination of fact common to the two litigations, then unless the seller after reasonable receipt of the notice does come in and defend he or she is so bound.

(b) If the claim is one for infringement or the like (~~((subsection (3) of))~~ RCW 62A.2-312(3)), the original seller may demand in writing that his or her buyer turn over to him or her control of the litigation including settlement or else be barred from any remedy over and if he or she also agrees to bear all expense and to satisfy any adverse judgment, then unless the buyer after seasonable receipt of the demand does turn over control the buyer is so barred.

(6) The provisions of subsections (3), (4), and (5) of this section apply to any obligation of a buyer to hold the seller harmless against infringement or the like (~~((subsection (3) of))~~ RCW 62A.2-312(3)).

Sec. 153. RCW 62A.2-608 and 1965 ex.s. c 157 s 2-608 are each amended to read as follows:

(1) The buyer may revoke his or her acceptance of a lot or commercial unit whose nonconformity substantially impairs its value to him or her if he or she has accepted it;

(a) On the reasonable assumption that its nonconformity would be cured and it has not been seasonably cured; or

(b) Without discovery of such nonconformity if his or her acceptance was reasonably induced either by the difficulty of discovery before acceptance or by the seller's assurances.

(2) Revocation of acceptance must occur within a reasonable time after the buyer discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by their own defects. It is not effective until the buyer notifies the seller of it.

(3) A buyer who so revokes has the same rights and duties with regard to the goods involved as if he or she had rejected them.

Sec. 154. RCW 62A.2-609 and 1965 ex.s. c 157 s 2-609 are each amended to read as follows:

(1) A contract for sale imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party the other may in writing demand adequate assurance of due performance and until he or she receives such assurance may if commercially reasonable suspend any performance for which he or she has not already received the agreed return.

(2) Between merchants, the reasonableness of grounds for insecurity and the adequacy of any assurance offered shall be determined according to commercial standards.

(3) Acceptance of any improper delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

(4) After receipt of a justified demand, failure to provide within a reasonable time not exceeding thirty days such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of the contract.

Sec. 155. RCW 62A.2-610 and 1965 ex.s. c 157 s 2-610 are each amended to read as follows:

When either party repudiates the contract with respect to a performance not yet due the loss of which will substantially impair the value of the contract to the other, the aggrieved party may:

(a) For a commercially reasonable time await performance by the repudiating party; or

(b) Resort to any remedy for breach (RCW 62A.2-703 or ((RCW)) 62A.2-711), even though he or she has notified the repudiating party that he or she would await the latter's performance and has urged retraction; and

(c) In either case suspend his or her own performance or proceed in accordance with the provisions of this Article on the seller's right to identify goods to the contract notwithstanding breach or to salvage unfinished goods (RCW 62A.2-704).

Sec. 156. RCW 62A.2-611 and 1965 ex.s. c 157 s 2-611 are each amended to read as follows:

(1) Until the repudiating party's next performance is due, he or she can retract his or her repudiation unless the aggrieved party has since the repudiation canceled or materially changed his or her position or otherwise indicated that he or she considers the repudiation final.

(2) Retraction may be by any method which clearly indicates to the aggrieved party that the repudiating party intends to perform, but must include any assurance justifiably demanded under the provisions of this Article (RCW 62A.2-609).

(3) Retraction reinstates the repudiating party's rights under the contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation.

Sec. 157. RCW 62A.2-612 and 1965 ex.s. c 157 s 2-612 are each amended to read as follows:

(1) An "installment contract" is one which requires or authorizes the delivery of goods in separate lots to be separately accepted, even though the contract contains a clause "each delivery is a separate contract" or its equivalent.

(2) The buyer may reject any installment which is nonconforming if the nonconformity substantially impairs the value of that installment and cannot be cured or if the nonconformity is a defect in the required documents; but if the nonconformity does not fall within subsection (3) of this section and the seller gives adequate assurance of its cure, the buyer must accept that installment.

(3) Whenever nonconformity or default with respect to one or more installments substantially impairs the value of the whole contract there is a breach of the whole. But the aggrieved party reinstates the contract if he or she accepts a nonconforming installment without seasonably notifying of cancellation or if he or she brings an action with respect only to past installments or demands performance as to future installments.

Sec. 158. RCW 62A.2-613 and 1965 ex.s. c 157 s 2-613 are each amended to read as follows:

Where the contract requires for its performance goods identified when the contract is made, and the goods suffer casualty without fault of either party before the risk of loss passes to the buyer, or in a proper case under a "no arrival, no sale" term (RCW 62A.2-324) then:

(a) If the loss is total, the contract is avoided; and

(b) If the loss is partial or the goods have so deteriorated as no longer to conform to the contract, the buyer may nevertheless demand inspection and at his or her option either treat the contract as avoided or accept the goods with due allowance from the contract price for the deterioration or the deficiency in quantity but without further right against the seller.

Sec. 159. RCW 62A.2-615 and 1965 ex.s. c 157 s 2-615 are each amended to read as follows:

Except so far as a seller may have assumed a greater obligation and subject to the preceding section on substituted performance:

(a) Delay in delivery or nondelivery in whole or in part by a seller who complies with (~~paragraphs (b) and (c))~~ subsections (b) and (c) of this section is not a breach of his or her duty under a contract for sale if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on which the contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order whether or not it later proves to be invalid.

(b) Where the causes mentioned in (~~paragraph (a))~~ subsection (a) of this section affect only a part of the seller's capacity to perform, he or she must

allocate production and deliveries among his or her customers but may at his or her option include regular customers not then under contract as well as his or her own requirements for further manufacture. He or she may so allocate in any manner which is fair and reasonable.

(c) The seller must notify the buyer seasonably that there will be delay or nondelivery and, when allocation is required under (~~paragraph (b))~~ subsection (b) of this section, of the estimated quota thus made available for the buyer.

Sec. 160. RCW 62A.2-616 and 1965 ex.s. c 157 s 2-616 are each amended to read as follows:

(1) Where the buyer receives notification of a material or indefinite delay or an allocation justified under the preceding section, he or she may by written notification to the seller as to any delivery concerned, and where the prospective deficiency substantially impairs the value of the whole contract under the provisions of this Article relating to breach of installment contracts (RCW 62A.2-612), then also as to the whole(⁂);

(a) Terminate and thereby discharge any unexecuted portion of the contract; or

(b) Modify the contract by agreeing to take his or her available quota in substitution.

(2) If after receipt of such notification from the seller the buyer fails so to modify the contract within a reasonable time not exceeding thirty days, the contract lapses with respect to any deliveries affected.

Sec. 161. RCW 62A.2-702 and 1981 c 41 s 4 are each amended to read as follows:

(1) Where the seller discovers the buyer to be insolvent, he or she may refuse delivery except for cash including payment for all goods theretofore delivered under the contract, and stop delivery under this Article (RCW 62A.2-705).

(2) Where the seller discovers that the buyer has received goods on credit while insolvent, he or she may reclaim the goods upon demand made within ten days after the receipt, but if misrepresentation of solvency has been made to the particular seller in writing within three months before delivery the ten-day limitation does not apply. Except as provided in this subsection, the seller may not base a right to reclaim goods on the buyer's fraudulent or innocent misrepresentation of solvency or of intent to pay.

(3) The seller's right to reclaim under subsection (2) of this section is subject to the rights of a buyer in ordinary course or other good faith purchaser under this Article (RCW 62A.2-403). Successful reclamation of goods excludes all other remedies with respect to them.

Sec. 162. RCW 62A.2-704 and 1965 ex.s. c 157 s 2-704 are each amended to read as follows:

(1) An aggrieved seller under the preceding section may:

(a) Identify to the contract conforming goods not already identified if at the time he or she learned of the breach they are in his or her possession or control;

(b) Treat as the subject of resale goods which have demonstrably been intended for the particular contract even though those goods are unfinished.

(2) Where the goods are unfinished, an aggrieved seller may in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of

effective realization either complete the manufacture and wholly identify the goods to the contract or cease manufacture and resell for scrap or salvage value or proceed in any other reasonable manner.

Sec. 163. RCW 62A.2-706 and 1967 c 114 s 13 are each amended to read as follows:

(1) Under the conditions stated in RCW 62A.2-703 on seller's remedies, the seller may resell the goods concerned or the undelivered balance thereof. Where the resale is made in good faith and in a commercially reasonable manner, the seller may recover the difference between the resale price and the contract price together with any incidental damages allowed under the provisions of this Article (RCW 62A.2-710), but less expenses saved in consequence of the buyer's breach.

(2) Except as otherwise provided in subsection (3) of this section or unless otherwise agreed, resale may be at public or private sale including sale by way of one or more contracts to sell or of identification to an existing contract of the seller. Sale may be as a unit or in parcels and at any time and place and on any terms but every aspect of the sale including the method, manner, time, place, and terms must be commercially reasonable. The resale must be reasonably identified as referring to the broken contract, but it is not necessary that the goods be in existence or that any or all of them have been identified to the contract before the breach.

(3) Where the resale is at private sale, the seller must give the buyer reasonable notification of his or her intention to resell.

(4) Where the resale is at public sale:

(a) Only identified goods can be sold except where there is a recognized market for a public sale of futures in goods of the kind; and

(b) It must be made at a usual place or market for public sale if one is reasonably available and except in the case of goods which are perishable or threaten to decline in value speedily the seller must give the buyer reasonable notice of the time and place of the resale; and

(c) If the goods are not to be within the view of those attending the sale the notification of sale must state the place where the goods are located and provide for their reasonable inspection by prospective bidders; and

(d) The seller may buy.

(5) A purchaser who buys in good faith at a resale takes the goods free of any rights of the original buyer even though the seller fails to comply with one or more of the requirements of this section.

(6) The seller is not accountable to the buyer for any profit made on any resale. A person in the position of a seller (RCW 62A.2-707) or a buyer who has rightfully rejected or justifiably revoked acceptance must account for any excess over the amount of his or her security interest, as hereinafter defined (~~(((subsection (3) of))~~ RCW 62A.2-711(3)).

Sec. 164. RCW 62A.2-707 and 1965 ex.s. c 157 s 2-707 are each amended to read as follows:

(1) A "person in the position of a seller" includes as against a principal an agent who has paid or become responsible for the price of goods on behalf of his or her principal or anyone who otherwise holds a security interest or other right in goods similar to that of a seller.

(2) A person in the position of a seller may as provided in this Article withhold or stop delivery (RCW 62A.2-705) and resell (RCW 62A.2-706) and recover incidental damages (RCW 62A.2-710).

Sec. 165. RCW 62A.2-709 and 1965 ex.s. c 157 s 2-709 are each amended to read as follows:

(1) When the buyer fails to pay the price as it becomes due, the seller may recover, together with any incidental damages under the next section, the price:

(a) Of goods accepted or of conforming goods lost or damaged within a commercially reasonable time after risk of their loss has passed to the buyer; and

(b) Of goods identified to the contract if the seller is unable after reasonable effort to resell them at a reasonable price or the circumstances reasonably indicate that such effort will be unavailing.

(2) Where the seller sues for the price, he or she must hold for the buyer any goods which have been identified to the contract and are still in his or her control except that if resale becomes possible he or she may resell them at any time prior to the collection of the judgment. The net proceeds of any such resale must be credited to the buyer and payment of the judgment entitles him or her to any goods not resold.

(3) After the buyer has wrongfully rejected or revoked acceptance of the goods or has failed to make a payment due or has repudiated (RCW 62A.2-610), a seller who is held not entitled to the price under this section shall nevertheless be awarded damages for nonacceptance under the preceding section.

Sec. 166. RCW 62A.2-711 and 1965 ex.s. c 157 s 2-711 are each amended to read as follows:

(1) Where the seller fails to make delivery or repudiates or the buyer rightfully rejects or justifiably revokes acceptance, then with respect to any goods involved, and with respect to the whole if the breach goes to the whole contract (RCW 62A.2-612), the buyer may cancel and whether or not he or she has done so may in addition to recovering so much of the price as has been paid:

(a) "Cover" and have damages under the next section as to all the goods affected whether or not they have been identified to the contract; or

(b) Recover damages for nondelivery as provided in this Article (RCW 62A.2-713).

(2) Where the seller fails to deliver or repudiates, the buyer may also:

(a) If the goods have been identified recover them as provided in this Article (RCW 62A.2-502); or

(b) In a proper case obtain specific performance or replevy the goods as provided in this Article (RCW 62A.2-716).

(3) On rightful rejection or justifiable revocation of acceptance, a buyer has a security interest in goods in his or her possession or control for any payments made on their price and any expenses reasonably incurred in their inspection, receipt, transportation, care, and custody and may hold such goods and resell them in like manner as an aggrieved seller (RCW 62A.2-706).

Sec. 167. RCW 62A.2-712 and 1965 ex.s. c 157 s 2-712 are each amended to read as follows:

(1) After a breach within the preceding section, the buyer may "cover" by making in good faith and without unreasonable delay any reasonable purchase of or contract to purchase goods in substitution for those due from the seller.

(2) The buyer may recover from the seller as damages the difference between the cost of cover and the contract price together with any incidental or consequential damages as hereinafter defined (RCW 62A.2-715), but less expenses saved in consequence of the seller's breach.

(3) Failure of the buyer to effect cover within this section does not bar him or her from any other remedy.

Sec. 168. RCW 62A.2-714 and 1965 ex.s. c 157 s 2-714 are each amended to read as follows:

(1) Where the buyer has accepted goods and given notification (~~((subsection (3) of))~~ RCW 62A.2-607(3)), he or she may recover as damages for any nonconformity of tender the loss resulting in the ordinary course of events from the seller's breach as determined in any manner which is reasonable.

(2) The measure of damages for breach of warranty is the difference at the time and place of acceptance between the value of the goods accepted and the value they would have had if they had been as warranted, unless special circumstances show proximate damages of a different amount.

(3) In a proper case, any incidental and consequential damages under the next section may also be recovered.

Sec. 169. RCW 62A.2-716 and 2000 c 250 s 9A-807 are each amended to read as follows:

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he or she is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

Sec. 170. RCW 62A.2-717 and 1965 ex.s. c 157 s 2-717 are each amended to read as follows:

The buyer on notifying the seller of his or her intention to do so may deduct all or any part of the damages resulting from any breach of the contract from any part of the price still due under the same contract.

Sec. 171. RCW 62A.2-718 and 1965 ex.s. c 157 s 2-718 are each amended to read as follows:

(1) Damages for breach by either party may be liquidated in the agreement but only at an amount which is reasonable in the light of the anticipated or actual harm caused by the breach, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy. A term fixing unreasonably large liquidated damages is void as a penalty.

(2) Where the seller justifiably withholds delivery of goods because of the buyer's breach, the buyer is entitled to restitution of any amount by which the sum of his or her payments exceeds:

(a) The amount to which the seller is entitled by virtue of terms liquidating the seller's damages in accordance with subsection (1) of this section, or

(b) In the absence of such terms, twenty per cent of the value of the total performance for which the buyer is obligated under the contract or five hundred dollars, whichever is smaller.

(3) The buyer's right to restitution under subsection (2) of this section is subject to offset to the extent that the seller establishes;

(a) A right to recover damages under the provisions of this Article other than subsection (1) of this section, and

(b) The amount or value of any benefits received by the buyer directly or indirectly by reason of the contract.

(4) Where a seller has received payment in goods, their reasonable value or the proceeds of their resale shall be treated as payments for the purposes of subsection (2) of this section; but if the seller has notice of the buyer's breach before reselling goods received in part performance, his or her resale is subject to the conditions laid down in this Article on resale by an aggrieved seller (RCW 62A.2-706).

Sec. 172. RCW 62A.2-722 and 1965 ex.s. c 157 s 2-722 are each amended to read as follows:

Where a third party so deals with goods which have been identified to a contract for sale as to cause actionable injury to a party to that contract;

(a) A right of action against the third party is in either party to the contract for sale who has title to or a security interest or a special property or an insurable interest in the goods; and if the goods have been destroyed or converted a right of action is also in the party who either bore the risk of loss under the contract for sale or has since the injury assumed that risk as against the other;

(b) If at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the contract for sale and there is no arrangement between them for disposition of the recovery, his or her suit or settlement is, subject to his or her own interest, as a fiduciary for the other party to the contract;

(c) Either party may with the consent of the other sue for the benefit of whom it may concern.

Sec. 173. RCW 62A.2-723 and 1965 ex.s. c 157 s 2-723 are each amended to read as follows:

(1) If an action based on anticipatory repudiation comes to trial before the time for performance with respect to some or all of the goods, any damages based on market price (RCW 62A.2-708 or ((RCW)) 62A.2-713) shall be determined according to the price of such goods prevailing at the time when the aggrieved party learned of the repudiation.

(2) If evidence of a price prevailing at the times or places described in this Article is not readily available, the price prevailing within any reasonable time before or after the time described or at any other place which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the cost of transporting the goods to or from such other place.

(3) Evidence of a relevant price prevailing at a time or place other than the one described in this Article offered by one party is not admissible unless and

until he or she has given the other party such notice as the court finds sufficient to prevent unfair surprise.

Sec. 174. RCW 62A.11-109 and 1981 c 41 s 45 are each amended to read as follows:

From and after midnight June 30, 1982, upon request of any person, the county auditor shall issue his or her certificate showing whether there is on file with the county auditor's office on the date and hour stated therein, any presently effective financing statement filed with the county auditor's office before midnight June 30, 1982, naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be four dollars. Upon request, the county auditor shall issue his or her certificate and shall furnish a copy of any filed financing statements or statements of assignment for a uniform fee of ten dollars for each particular debtor's statements requested.

Sec. 175. RCW 64.34.364 and 1990 c 166 s 6 are each amended to read as follows:

(1) The association has a lien on a unit for any unpaid assessments levied against a unit from the time the assessment is due.

(2) A lien under this section shall be prior to all other liens and encumbrances on a unit except: (a) Liens and encumbrances recorded before the recording of the declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. A lien under this section is not subject to the provisions of chapter 6.13 RCW.

(3) Except as provided in subsections (4) and (5) of this section, the lien shall also be prior to the mortgages described in subsection (2)(b) of this section to the extent of assessments for common expenses, excluding any amounts for capital improvements, based on the periodic budget adopted by the association pursuant to RCW 64.34.360(1) which would have become due during the six months immediately preceding the date of a sheriff's sale in an action for judicial foreclosure by either the association or a mortgagee, the date of a trustee's sale in a nonjudicial foreclosure by a mortgagee, or the date of recording of the declaration of forfeiture in a proceeding by the vendor under a real estate contract.

(4) The priority of the association's lien against units encumbered by a mortgage held by an eligible mortgagee or by a mortgagee which has given the association a written request for a notice of delinquent assessments shall be reduced by up to three months if and to the extent that the lien priority under subsection (3) of this section includes delinquencies which relate to a period after such holder becomes an eligible mortgagee or has given such notice and before the association gives the holder a written notice of the delinquency. This subsection does not affect the priority of mechanics' or ~~((materialmen's))~~ material suppliers' liens, or the priority of liens for other assessments made by the association.

(5) If the association forecloses its lien under this section nonjudicially pursuant to chapter 61.24 RCW, as provided by subsection (9) of this section, the

association shall not be entitled to the lien priority provided for under subsection (3) of this section.

(6) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

(7) Recording of the declaration constitutes record notice and perfection of the lien for assessments. While no further recording of any claim of lien for assessment under this section shall be required to perfect the association's lien, the association may record a notice of claim of lien for assessments under this section in the real property records of any county in which the condominium is located. Such recording shall not constitute the written notice of delinquency to a mortgagee referred to in subsection (2) of this section.

(8) A lien for unpaid assessments and the personal liability for payment of assessments is extinguished unless proceedings to enforce the lien or collect the debt are instituted within three years after the amount of the assessments sought to be recovered becomes due.

(9) The lien arising under this section may be enforced judicially by the association or its authorized representative in the manner set forth in chapter 61.12 RCW. The lien arising under this section may be enforced nonjudicially in the manner set forth in chapter 61.24 RCW for nonjudicial foreclosure of deeds of trust if the declaration (a) contains a grant of the condominium in trust to a trustee qualified under RCW 61.24.010 to secure the obligations of the unit owners to the association for the payment of assessments, (b) contains a power of sale, (c) provides in its terms that the units are not used principally for agricultural or farming purposes, and (d) provides that the power of sale is operative in the case of a default in the obligation to pay assessments. The association or its authorized representative shall have the power, unless prohibited by the declaration, to purchase the unit at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. Nothing in this section shall prohibit an association from taking a deed in lieu of foreclosure.

(10) From the time of commencement of an action by the association to foreclose a lien for nonpayment of delinquent assessments against a unit that is not occupied by the owner thereof, the association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the unit as and when due. If the rental is not paid, the receiver may obtain possession of the unit, refurbish it for rental up to a reasonable standard for rental units in this type of condominium, rent the unit or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the unit, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent assessments. Only a receiver may take possession and collect rents under this subsection, and a receiver shall not be appointed less than ninety days after the delinquency. The exercise by the association of the foregoing rights shall not affect the priority of preexisting liens on the unit.

(11) Except as provided in subsection (3) of this section, the holder of a mortgage or other purchaser of a unit who obtains the right of possession of the unit through foreclosure shall not be liable for assessments or installments

thereof that became due prior to such right of possession. Such unpaid assessments shall be deemed to be common expenses collectible from all the unit owners, including such mortgagee or other purchaser of the unit. Foreclosure of a mortgage does not relieve the prior owner of personal liability for assessments accruing against the unit prior to the date of such sale as provided in this subsection.

(12) In addition to constituting a lien on the unit, each assessment shall be the joint and several obligation of the owner or owners of the unit to which the same are assessed as of the time the assessment is due. In a voluntary conveyance, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor up to the time of the grantor's conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Suit to recover a personal judgment for any delinquent assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums.

(13) The association may from time to time establish reasonable late charges and a rate of interest to be charged on all subsequent delinquent assessments or installments thereof. In the absence of another established nonusurious rate, delinquent assessments shall bear interest from the date of delinquency at the maximum rate permitted under RCW 19.52.020 on the date on which the assessments became delinquent.

(14) The association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment.

(15) The association upon written request shall furnish to a unit owner or a mortgagee a statement signed by an officer or authorized agent of the association setting forth the amount of unpaid assessments against that unit. The statement shall be furnished within fifteen days after receipt of the request and is binding on the association, the board of directors, and every unit owner, unless and to the extent known by the recipient to be false.

(16) To the extent not inconsistent with this section, the declaration may provide for such additional remedies for collection of assessments as may be permitted by law.

Sec. 176. RCW 66.20.120 and 1933 ex.s. c 62 s 22 are each amended to read as follows:

Any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, may, if he or she holds a special permit under this title for that purpose, administer liquor purchased by him or her under his or her special permit to any patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for medicinal purposes, and may charge for the liquor so administered; but no liquor shall be administered by any person under this section except to bona fide patients or inmates of the institution of which he or she is in charge and in cases of actual

need and every person in charge of an institution who administers liquor in evasion or violation of this title shall be guilty of a violation of this title.

Sec. 177. RCW 67.08.080 and 1999 c 282 s 5 are each amended to read as follows:

A boxing event held in this state may not be for more than ten rounds and no one round of any bout shall be scheduled for longer than three minutes and there shall be not less than one minute intermission between each round. In the event of bouts involving state, regional, national, or world championships, the department may grant an extension of no more than two additional rounds to allow total bouts of twelve rounds. A contestant in any boxing event under this chapter may not be permitted to wear gloves weighing less than eight ounces. The director shall adopt rules to assure clean and ~~((sportsmanlike))~~ sporting conduct on the part of all contestants and officials, and the orderly and proper conduct of the event in all respects, and to otherwise make rules consistent with this chapter, but such rules shall apply only to events held under the provisions of this chapter. The director may adopt rules with respect to round and bout limitations and clean and ~~((sportsmanlike))~~ sporting conduct for kickboxing, martial arts, or wrestling events.

Sec. 178. RCW 67.16.200 and 2007 c 100 s 1 are each amended to read as follows:

(1) A class 1 racing association licensed by the commission to conduct a race meet may seek approval from the commission to conduct parimutuel wagering at a satellite location or locations within the state of Washington. In order to participate in parimutuel wagering at a satellite location or locations within the state of Washington, the holder of a class 1 racing association license must have conducted at least one full live racing season. All class 1 racing associations must hold a live race meet within each succeeding twelve-month period to maintain eligibility to continue to participate in parimutuel wagering at a satellite location or locations. The sale of parimutuel pools at satellite locations shall be conducted simultaneous to all parimutuel wagering activity conducted at the licensee's live racing facility in the state of Washington. The commission's authority to approve satellite wagering at a particular location is subject to the following limitations:

(a) The commission may approve only one satellite location in each county in the state; however, the commission may grant approval for more than one licensee to conduct wagering at each satellite location. A satellite location shall not be operated within twenty driving miles of any class 1 racing facility. For the purposes of this section, "driving miles" means miles measured by the most direct route as determined by the commission; and

(b) A licensee shall not conduct satellite wagering at any satellite location within sixty driving miles of any other racing facility conducting a live race meet.

(2) Subject to local zoning and other land use ordinances, the commission shall be the sole judge of whether approval to conduct wagering at a satellite location shall be granted.

(3) The licensee shall combine the parimutuel pools of the satellite location with those of the racing facility for the purpose of determining odds and computing payoffs. The amount wagered at the satellite location shall be

combined with the amount wagered at the racing facility for the application of take out formulas and distribution as provided in RCW 67.16.102, 67.16.105, 67.16.170, and 67.16.175. A satellite extension of the licensee's racing facility shall be subject to the same application of the rules of racing as the licensee's racing facility.

(4) Upon written application to the commission, a class 1 racing association may be authorized to transmit simulcasts of live horse races conducted at its racetrack to locations outside of the state of Washington approved by the commission and in accordance with the interstate horse racing act of 1978 (15 U.S.C. Sec. 3001 to 3007) or any other applicable laws. The commission may permit parimutuel pools on the simulcast races to be combined in a common pool. A racing association that transmits simulcasts of its races to locations outside this state shall pay at least fifty percent of the fee that it receives for sale of the simulcast signal to the horsemen's or horsewomen's purse account for its live races after first deducting the actual cost of sending the signal out of state.

(5) Upon written application to the commission, a class 1 racing association may be authorized to transmit simulcasts of live horse races conducted at its racetrack to licensed racing associations located within the state of Washington and approved by the commission for the receipt of the simulcasts. The commission shall permit parimutuel pools on the simulcast races to be combined in a common pool. The fee for in-state, track-to-track simulcasts shall be five and one-half percent of the gross parimutuel receipts generated at the receiving location and payable to the sending racing association. A racing association that transmits simulcasts of its races to other licensed racing associations shall pay at least fifty percent of the fee that it receives for the simulcast signal to the horsemen's or horsewomen's purse account for its live race meet after first deducting the actual cost of sending the simulcast signal. A racing association that receives races simulcast from class 1 racing associations within the state shall pay at least fifty percent of its share of the parimutuel receipts to the horsemen's or horsewomen's purse account for its live race meet after first deducting the purchase price and the actual direct costs of importing the race.

(6) A class 1 racing association may be allowed to import simulcasts of horse races from out-of-state racing facilities. With the prior approval of the commission, the class 1 racing association may participate in a multijurisdictional common pool and may change its commission and breakage rates to achieve a common rate with other participants in the common pool.

(a) The class 1 racing association shall make written application with the commission for permission to import simulcast horse races for the purpose of parimutuel wagering. Subject to the terms of this section, the commission is the sole authority in determining whether to grant approval for an imported simulcast race.

(b) When open for parimutuel wagering, a class 1 racing association which imports simulcast races shall also conduct simulcast parimutuel wagering within its licensed racing enclosure on all races simulcast from other class 1 racing associations within the state of Washington.

(c) On any imported simulcast race, the class 1 racing association shall pay fifty percent of its share of the parimutuel receipts to the horsemen's or horsewomen's purse account for its live race meet after first deducting the

purchase price of the imported race and the actual costs of importing and offering the race.

(7) A licensed nonprofit racing association may be approved to import one simulcast race of regional or national interest on each live race day.

(8) For purposes of this section, a class 1 racing association is defined as a licensee approved by the commission to conduct during each twelve-month period at least forty days of live racing. If a live race day is canceled due to reasons directly attributable to acts of God, labor disruptions affecting live race days but not directly involving the licensee or its employees, or other circumstances that the commission decides are beyond the control of the class 1 racing association, then the canceled day counts toward the forty-day requirement. The commission may by rule increase the number of live racing days required to maintain class 1 racing association status or make other rules necessary to implement this section.

(9) This section does not establish a new form of gaming in Washington or allow expanded gaming within the state beyond what has been previously authorized. Simulcast wagering has been allowed in Washington before April 19, 1997. Therefore, this section does not allow gaming of any nature or scope that was prohibited before April 19, 1997. This section is necessary to protect the Washington equine breeding and racing industries, and in particular those sectors of these industries that are dependent upon live horse racing. The purpose of this section is to protect these industries from adverse economic impacts and to promote fan attendance at class 1 racing facilities. Therefore, a licensed class 1 racing association may be approved to disseminate imported simulcast race card programs to satellite locations approved under this section, provided that the class 1 racing association has conducted at least forty live racing days with an average on-track handle on the live racing product of a minimum of one hundred fifty thousand dollars per day during the twelve months immediately preceding the application date. However, to promote the development of a new class 1 racing association facility and to meet the best interests of the Washington equine breeding and racing industries, the commission may by rule reduce the required minimum average on-track handle on the live racing product from one hundred fifty thousand dollars per day to thirty thousand dollars per day.

(10) A licensee conducting simulcasting under this section shall place signs in the licensee's gambling establishment under RCW 9.46.071. The informational signs concerning problem and compulsive gambling must include a toll-free telephone number for problem and pathological gamblers and be developed under RCW 9.46.071.

(11) Chapter 10, Laws of 2001 1st sp. sess. does not establish a new form of gaming in Washington or allow expanded gaming within the state beyond what has been previously authorized. Simulcast wagering has been allowed in Washington before August 23, 2001. Therefore, this section does not allow gaming of any nature or scope that was prohibited before August 23, 2001. Chapter 10, Laws of 2001 1st sp. sess. is necessary to protect the Washington equine breeding and racing industries, and in particular those sectors of these industries that are dependent upon live horse racing. The purpose of chapter 10, Laws of 2001 1st sp. sess. is to protect these industries from adverse economic impacts and to promote fan attendance at class 1 racing facilities.

Sec. 179. RCW 70.97.040 and 2005 c 504 s 406 are each amended to read as follows:

(1)(a) Every person who is a resident of an enhanced services facility shall be entitled to all the rights set forth in this chapter, and chapters 71.05 and 70.96A RCW, and shall retain all rights not denied him or her under these chapters.

(b) No person shall be presumed incompetent as a consequence of receiving an evaluation or voluntary or involuntary treatment for a mental disorder, chemical dependency disorder, or both, under this chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this state dealing with mental illness. Competency shall not be determined or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

(c) At the time of his or her treatment planning meeting, every resident of an enhanced services facility shall be given a written statement setting forth the substance of this section. The department shall by rule develop a statement and process for informing residents of their rights in a manner that is likely to be understood by the resident.

(2) Every resident of an enhanced services facility shall have the right to adequate care and individualized treatment.

(3) The provisions of this chapter shall not be construed to deny to any person treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(4) Persons receiving evaluation or treatment under this chapter shall be given a reasonable choice of an available physician or other professional person qualified to provide such services.

(5) The physician-patient privilege or the psychologist-client privilege shall be deemed waived in proceedings under this chapter relating to the administration of antipsychotic medications. As to other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the privileges shall be waived when a court of competent jurisdiction in its discretion determines that such waiver is necessary to protect either the detained person or the public.

(6) Insofar as danger to the person or others is not created, each resident of an enhanced services facility shall have, in addition to other rights not specifically withheld by law, the following rights, a list of which shall be prominently posted in all facilities, institutions, and hospitals providing such services:

(a) To wear his or her own clothes and to keep and use his or her own personal possessions, except when deprivation of same is essential to protect the safety of the resident or other persons;

(b) To keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases;

(c) To have access to individual storage space for his or her private use;

(d) To have visitors at reasonable times;

(e) To have reasonable access to a telephone, both to make and receive confidential calls, consistent with an effective treatment program;

(f) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(g) Not to consent to the administration of antipsychotic medications beyond the hearing conducted pursuant to RCW 71.05.215 or 71.05.217, or the

performance of electroconvulsant therapy, or surgery, except emergency life-saving surgery, unless ordered by a court under RCW 71.05.217;

(h) To discuss and actively participate in treatment plans and decisions with professional persons;

(i) Not to have psychosurgery performed on him or her under any circumstances;

(j) To dispose of property and sign contracts unless such person has been adjudicated an incompetent in a court proceeding directed to that particular issue; and

(k) To complain about rights violations or conditions and request the assistance of a mental health (~~(ombudsman)~~) ombuds or representative of Washington protection and advocacy. The facility may not prohibit or interfere with a resident's decision to consult with an advocate of his or her choice.

(7) Nothing contained in this chapter shall prohibit a resident from petitioning by writ of habeas corpus for release.

(8) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or active supervision by the department of corrections.

(9) A person has a right to refuse placement, except where subject to commitment, in an enhanced services facility. No person shall be denied other department services solely on the grounds that he or she has made such a refusal.

(10) A person has a right to appeal the decision of the department that he or she is eligible for placement at an enhanced services facility, and shall be given notice of the right to appeal in a format that is accessible to the person with instructions regarding what to do if the person wants to appeal.

Sec. 180. RCW 70.97.100 and 2005 c 504 s 412 are each amended to read as follows:

(1) The department shall establish licensing rules for enhanced services facilities to serve the populations defined in this chapter.

(2) No person or public or private agency may operate or maintain an enhanced services facility without a license, which must be renewed annually.

(3) A licensee shall have the following readily accessible and available for review by the department, residents, families of residents, and the public:

(a) Its license to operate and a copy of the department's most recent inspection report and any recent complaint investigation reports issued by the department;

(b) Its written policies and procedures for all treatment, care, and services provided directly or indirectly by the facility; and

(c) The department's toll-free complaint number, which shall also be posted in a clearly visible place and manner.

(4) Enhanced services facilities shall maintain a grievance procedure that meets the requirements of rules established by the department.

(5) No facility shall discriminate or retaliate in any manner against a resident or employee because the resident, employee, or any other person made a complaint or provided information to the department, the long-term care (~~(ombudsman)~~) ombuds, Washington protection and advocacy system, or a mental health (~~(ombudsperson)~~) ombuds.

(6) Each enhanced services facility will post in a prominent place in a common area a notice by the Washington protection and advocacy system providing contact information.

Sec. 181. RCW 70.128.150 and 1995 1st sp.s. c 18 s 27 are each amended to read as follows:

Whenever possible, adult family homes are encouraged to contact and work with local quality assurance projects such as the volunteer ~~((ombudsman))~~ ombuds with the goal of assuring high quality care is provided in the home.

An adult family home may not willfully interfere with a representative of the long-term care ~~((ombudsman))~~ ombuds program in the performance of official duties. The department shall impose a penalty of not more than one thousand dollars for any such willful interference.

Sec. 182. RCW 70.128.163 and 2009 c 560 s 6 are each amended to read as follows:

(1) When the department has summarily suspended a license, the licensee may, subject to the department's approval, elect to participate in a temporary management program. All provisions of this section shall apply.

The purposes of a temporary management program are as follows:

(a) To mitigate dislocation and transfer trauma of residents while the department and licensee may pursue dispute resolution or appeal of a summary suspension of license;

(b) To facilitate the continuity of safe and appropriate resident care and services;

(c) To preserve a residential option that meets a specialized service need and/or is in a geographical area that has a lack of available providers; and

(d) To provide residents with the opportunity for orderly discharge.

(2) Licensee participation in the temporary management program is voluntary. The department shall have the discretion to approve any temporary manager and the temporary management arrangements. The temporary management shall assume the total responsibility for the daily operations of the home.

(3) The temporary management shall contract with the licensee as an independent contractor and is responsible for ensuring that all minimum licensing requirements are met. The temporary management shall protect the health, safety, and well-being of the residents for the duration of the temporary management and shall perform all acts reasonably necessary to ensure that residents' needs are met. The licensee is responsible for all costs related to administering the temporary management program and contracting with the temporary management. The temporary management agreement shall at a minimum address the following:

(a) Provision of liability insurance to protect residents and their property;

(b) Preservation of resident trust funds;

(c) The timely payment of past due or current accounts, operating expenses, including but not limited to staff compensation, and all debt that comes due during the period of the temporary management;

(d) The responsibilities for addressing all other financial obligations that would interfere with the ability of the temporary manager to provide adequate care and services to residents; and

(e) The authority of the temporary manager to manage the home, including the hiring, managing, and firing of employees for good cause, and to provide adequate care and services to residents.

(4) The licensee and department shall provide written notification immediately to all residents, legal representatives, interested family members, and the state long-term care ((ombudsman)) ombuds program, of the temporary management and the reasons for it. This notification shall include notice that residents may move from the home without notifying the licensee in advance, and without incurring any charges, fees, or costs otherwise available for insufficient advance notice, during the temporary management period.

(5) The temporary management period under this section concludes twenty-eight days after issuance of the formal notification of enforcement action or conclusion of administrative proceedings, whichever date is later. Nothing in this section precludes the department from revoking its approval of the temporary management and/or exercising its licensing enforcement authority under this chapter. The department's decision whether to approve or to revoke a temporary management arrangement is not subject to the administrative procedure act, chapter 34.05 RCW.

(6) The department is authorized to adopt rules implementing this section. In implementing this section, the department shall consult with consumers, advocates, and organizations representing adult family homes. The department may recruit and approve qualified, licensed providers interested in serving as temporary managers.

Sec. 183. RCW 70.128.200 and 1995 1st sp.s. c 18 s 30 are each amended to read as follows:

(1) The department shall maintain a toll-free telephone number for receiving complaints regarding adult family homes.

(2) An adult family home shall post in a place and manner clearly visible to residents and visitors the department's toll-free complaint telephone number.

(3) No adult family home shall discriminate or retaliate in any manner against a resident on the basis or for the reason that such resident or any other person made a complaint to the department or the long-term care ((ombudsman)) ombuds or cooperated with the investigation of such a complaint.

Sec. 184. RCW 70.129.030 and 1998 c 272 s 5 are each amended to read as follows:

(1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. The notification must be made prior to or upon admission. Receipt of the information must be acknowledged in writing.

(2) The resident or his or her legal representative has the right:

(a) Upon an oral or written request, to access all records pertaining to himself or herself including clinical records within twenty-four hours; and

(b) After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard photocopies of the records or portions of them upon request and two working days' advance notice to the facility.

(3) The facility shall only admit or retain individuals whose needs it can safely and appropriately serve in the facility with appropriate available staff and

through the provision of reasonable accommodations required by state or federal law. Except in cases of genuine emergency, the facility shall not admit an individual before obtaining a thorough assessment of the resident's needs and preferences. The assessment shall contain, unless unavailable despite the best efforts of the facility, the resident applicant, and other interested parties, the following minimum information: Recent medical history; necessary and contraindicated medications; a licensed medical or other health professional's diagnosis, unless the individual objects for religious reasons; significant known behaviors or symptoms that may cause concern or require special care; mental illness, except where protected by confidentiality laws; level of personal care needs; activities and service preferences; and preferences regarding other issues important to the resident applicant, such as food and daily routine.

(4) The facility must inform each resident in writing in a language the resident or his or her representative understands before admission, and at least once every twenty-four months thereafter of: (a) Services, items, and activities customarily available in the facility or arranged for by the facility as permitted by the facility's license; (b) charges for those services, items, and activities including charges for services, items, and activities not covered by the facility's per diem rate or applicable public benefit programs; and (c) the rules of facility operations required under RCW 70.129.140(2). Each resident and his or her representative must be informed in writing in advance of changes in the availability or the charges for services, items, or activities, or of changes in the facility's rules. Except in emergencies, thirty days' advance notice must be given prior to the change. However, for facilities licensed for six or fewer residents, if there has been a substantial and continuing change in the resident's condition necessitating substantially greater or lesser services, items, or activities, then the charges for those services, items, or activities may be changed upon fourteen days' advance written notice.

(5) The facility must furnish a written description of residents rights that includes:

(a) A description of the manner of protecting personal funds, under RCW 70.129.040;

(b) A posting of names, addresses, and telephone numbers of the state survey and certification agency, the state licensure office, the state (~~ombudsman~~) ombuds program, and the protection and advocacy systems; and

(c) A statement that the resident may file a complaint with the appropriate state licensing agency concerning alleged resident abuse, neglect, and misappropriation of resident property in the facility.

(6) Notification of changes.

(a) A facility must immediately consult with the resident's physician, and if known, make reasonable efforts to notify the resident's legal representative or an interested family member when there is:

(i) An accident involving the resident which requires or has the potential for requiring physician intervention;

(ii) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications).

(b) The facility must promptly notify the resident or the resident's representative shall make reasonable efforts to notify an interested family member, if known, when there is:

- (i) A change in room or roommate assignment; or
- (ii) A decision to transfer or discharge the resident from the facility.

(c) The facility must record and update the address and phone number of the resident's representative or interested family member, upon receipt of notice from them.

Sec. 185. RCW 70.129.090 and 1994 c 214 s 10 are each amended to read as follows:

(1) The resident has the right and the facility must not interfere with access to any resident by the following:

- (a) Any representative of the state;
- (b) The resident's individual physician;
- (c) The state long-term care (~~(ombudsman)~~) ombuds as established under chapter 43.190 RCW;
- (d) The agency responsible for the protection and advocacy system for (~~developmentally disabled~~) individuals with developmental disabilities as established under part C of the developmental disabilities assistance and bill of rights act;

(e) The agency responsible for the protection and advocacy system for (~~mentally ill~~) individuals with mental illness as established under the protection and advocacy for mentally ill individuals act;

(f) Subject to reasonable restrictions to protect the rights of others and to the resident's right to deny or withdraw consent at any time, immediate family or other relatives of the resident and others who are visiting with the consent of the resident;

(g) The agency responsible for the protection and advocacy system for individuals with disabilities as established under section 509 of the rehabilitation act of 1973, as amended, who are not served under the mandates of existing protection and advocacy systems created under federal law.

(2) The facility must provide reasonable access to a resident by his or her representative or an entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(3) The facility must allow representatives of the state (~~(ombudsman)~~) ombuds to examine a resident's clinical records with the permission of the resident or the resident's legal representative, and consistent with state and federal law.

Sec. 186. RCW 70.129.110 and 1997 c 392 s 205 are each amended to read as follows:

(1) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:

- (a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
- (b) The safety of individuals in the facility is endangered;
- (c) The health of individuals in the facility would otherwise be endangered;

(d) The resident has failed to make the required payment for his or her stay;
or

(e) The facility ceases to operate.

(2) All long-term care facilities shall fully disclose to potential residents or their legal representative the service capabilities of the facility prior to admission to the facility. If the care needs of the applicant who is medicaid eligible are in excess of the facility's service capabilities, the department shall identify other care settings or residential care options consistent with federal law.

(3) Before a long-term care facility transfers or discharges a resident, the facility must:

(a) First attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident;

(b) Notify the resident and representative and make a reasonable effort to notify, if known, an interested family member of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;

(c) Record the reasons in the resident's record; and

(d) Include in the notice the items described in subsection (5) of this section.

(4)(a) Except when specified in this subsection, the notice of transfer or discharge required under subsection (3) of this section must be made by the facility at least thirty days before the resident is transferred or discharged.

(b) Notice may be made as soon as practicable before transfer or discharge when:

(i) The safety of individuals in the facility would be endangered;

(ii) The health of individuals in the facility would be endangered;

(iii) An immediate transfer or discharge is required by the resident's urgent medical needs; or

(iv) A resident has not resided in the facility for thirty days.

(5) The written notice specified in subsection (3) of this section must include the following:

(a) The reason for transfer or discharge;

(b) The effective date of transfer or discharge;

(c) The location to which the resident is transferred or discharged;

(d) The name, address, and telephone number of the state long-term care ~~((ombudsman))~~ ombuds;

(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of ~~((developmentally disabled))~~ individuals with developmental disabilities established under part C of the developmental disabilities assistance and bill of rights act; and

(f) For residents ~~((who are mentally ill))~~ with mental illness, the mailing address and telephone number of the agency responsible for the protection and advocacy of ~~((mentally ill))~~ individuals with mental illness established under the protection and advocacy for mentally ill individuals act.

(6) A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(7) A resident discharged in violation of this section has the right to be readmitted immediately upon the first availability of a gender-appropriate bed in the facility.

Sec. 187. RCW 70.129.160 and 2012 c 10 s 58 are each amended to read as follows:

The long-term care (~~((ombudsman))~~) ombuds shall monitor implementation of this chapter and determine the degree to which veterans' homes, nursing facilities, adult family homes, and assisted living facilities ensure that residents are able to exercise their rights. The long-term care (~~((ombudsman))~~) ombuds shall consult with the departments of health and social and health services, long-term care facility organizations, resident groups, senior citizen organizations, and organizations concerning individuals with disabilities.

Sec. 188. RCW 70.129.170 and 1994 c 214 s 19 are each amended to read as follows:

The legislature intends that long-term care facility or nursing home residents, their family members or guardians, the long-term care (~~((ombudsman))~~) ombuds, protection and advocacy personnel identified in RCW 70.129.110(~~((4))~~) (5) (e) and (f), and others who may seek to assist long-term care facility or nursing home residents, use the least formal means available to satisfactorily resolve disputes that may arise regarding the rights conferred by the provisions of this chapter (~~((70.129 RCW))~~) and RCW 18.20.180, 18.51.009, 72.36.037, and 70.128.125. Wherever feasible, direct discussion with facility personnel or administrators should be employed. Failing that, and where feasible, recourse may be sought through state or federal long-term care or nursing home licensing or other regulatory authorities. However, the procedures suggested in this section are cumulative and shall not restrict an agency or person from seeking a remedy provided by law or from obtaining additional relief based on the same facts, including any remedy available to an individual at common law. Chapter 214, Laws of 1994 is not intended to, and shall not be construed to, create any right of action on the part of any individual beyond those in existence under any common law or statutory doctrine. Chapter 214, Laws of 1994 is not intended to, and shall not be construed to, operate in derogation of any right of action on the part of any individual in existence on June 9, 1994.

Sec. 189. RCW 71.24.350 and 2005 c 504 s 803 are each amended to read as follows:

The department shall require each regional support network to provide for a separately funded mental health (~~((ombudsman))~~) ombuds office in each regional support network that is independent of the regional support network. The (~~((ombudsman))~~) ombuds office shall maximize the use of consumer advocates.

Sec. 190. RCW 73.16.061 and 2001 c 133 s 10 are each amended to read as follows:

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

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

(b) The employer support for guard and reserve (~~(ombudsman)~~) ombuds, or his or her designee, has inquired in the matter and has been unable to resolve it.

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

Sec. 191. RCW 73.20.010 and 1945 c 271 s 1 are each amended to read as follows:

In addition to the acknowledgment of instruments and the performance of other notarial acts in the manner and form and as otherwise authorized by law, instruments may be acknowledged, documents attested, oaths and affirmations administered, depositions and affidavits executed, and other notarial acts performed, before or by any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the army or marine corps, or with the rank of ensign or higher in the navy or coast guard, or with equivalent rank in any other component part of the armed forces of the United States, by any person who either:

(1) Is a member of the armed forces of the United States~~((;))~~; or

(2) Is serving as a merchant seaman or seawoman outside the limits of the United States included within the forty-eight states and the District of Columbia; or

(3) Is outside said limits by permission, assignment, or direction of any department or official of the United States government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged.

Such acknowledgment of instruments, attestation of documents, administration of oaths and affirmations, execution of depositions and affidavits, and performance of other notarial acts, heretofore or hereafter made or taken, are hereby declared legal, valid, and binding, and instruments and documents so acknowledged, authenticated, or sworn to shall be admissible in evidence and eligible to record in this state under the same circumstances, and with the same force and effect as if such acknowledgment, attestation, oath, affirmation, deposition, affidavit, or other notarial act, had been made or taken within this state before or by a duly qualified officer or official as otherwise provided by law.

In the taking of acknowledgments and the performing of other notarial acts requiring certification, a certificate endorsed upon or attached to the instrument or documents, which shows the date of the notarial act and which states, in substance, that the person appearing before the officer acknowledged the instrument as his or her act or made or signed the instrument or document under oath, shall be sufficient for all intents and purposes. The instrument or document shall not be rendered invalid by the failure to state the place of execution or acknowledgment.

If the signature, rank, and branch of service or subdivision thereof, of any such commissioned officer appear upon such instrument or document or certificate, no further proof of the authority of such officer so to act shall be required and such action by such commissioned officer shall be prima facie

evidence that the person making such oath or acknowledgment is within the purview of this section.

Sec. 192. RCW 74.04.011 and 1979 c 141 s 295 are each amended to read as follows:

The secretary of social and health services shall be the administrative head and appointing authority of the department of social and health services and he or she shall have the power to and shall employ such assistants and personnel as may be necessary for the general administration of the department: PROVIDED, That such employment is in accordance with the rules and regulations of the state merit system. The secretary shall through and by means of his or her assistants and personnel exercise such powers and perform such duties as may be prescribed by the public assistance laws of this state.

The authority vested in the secretary as appointing authority may be delegated by the secretary or his or her designee to any suitable employee of the department.

Sec. 193. RCW 74.04.014 and 2012 c 253 s 4 are each amended to read as follows:

(1) In carrying out the provisions of this chapter, the office of fraud and accountability shall have prompt access to all individuals, records, electronic data, reports, audits, reviews, documents, and other materials available to the department of revenue, department of labor and industries, department of early learning, employment security department, department of licensing, and any other government entity that can be used to help facilitate investigations of fraud or abuse as determined necessary by the director of the office of fraud and accountability.

(2) The investigator shall have access to all original child care records maintained by licensed and unlicensed child care providers with the consent of the provider or with a court order or valid search warrant.

(3) Information gathered by the department, the office, or the fraud ~~((ombudsman))~~ ombuds shall be safeguarded and remain confidential as required by applicable state or federal law. Whenever information or assistance requested under subsection (1) or (2) of this section is, in the judgment of the director, unreasonably refused or not provided, the director of the office of fraud and accountability must report the circumstances to the secretary immediately.

Sec. 194. RCW 74.04.080 and 1979 c 141 s 300 are each amended to read as follows:

The county administrator shall have the power to, and shall, employ such personnel as may be necessary to carry out the provisions of this title, which employment shall be in accordance with the rules and regulations of the state merit system, and in accordance with personnel and administrative standards established by the department. The county administrator before qualifying shall furnish a surety bond in such amount as may be fixed by the secretary, but not less than five thousand dollars, conditioned that the administrator will faithfully account for all money and property that may come into his or her possession or control. The cost of such bond shall be an administrative expense and shall be paid by the department.

Sec. 195. RCW 74.04.350 and 1959 c 26 s 74.04.350 are each amended to read as follows:

Federal surplus commodities shall not be deemed or construed to be public assistance and care or a substitute, in whole or in part, therefor; and the receipt of such commodities by eligible families and individuals shall not subject them, their legally responsible relatives, their property, or their estates to any demand, claim, or liability on account thereof. A person's need or eligibility for public assistance or care shall not be affected by his or her receipt of federal surplus commodities.

Sec. 196. RCW 74.04.385 and 1979 c 141 s 314 are each amended to read as follows:

It shall be unlawful for any recipient of federal or other surplus commodities received under RCW 74.04.380 to sell, transfer, barter, or otherwise dispose of such commodities to any other person. It shall be unlawful for any person to receive, possess, or use any surplus commodities received under RCW 74.04.380 unless he or she has been certified as eligible to receive, possess, and use such commodities by the state department of social and health services.

Violation of the provisions of RCW 74.04.380 or this section shall constitute a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not more than six months or by a fine of not more than five hundred dollars or both.

Sec. 197. RCW 74.04.480 and 1979 c 141 s 321 are each amended to read as follows:

The state department of social and health services is hereby authorized to promulgate rules and regulations governing the granting to any employee of the department, other than a provisional employee, a leave of absence for educational purposes to attend an institution of learning for the purpose of improving his or her skill, knowledge, and technique in the administration of social welfare programs which will benefit the department.

Pursuant to the rules and regulations of the department, employees of the department who are engaged in the administration of public welfare programs may (1) attend courses of training provided by institutions of higher learning; (2) attend special courses of study or seminars of short duration conducted by experts on a temporary basis for the purpose; (3) accept fellowships or traineeships at institutions of higher learning with such stipends as are permitted by regulations of the federal government.

The department of social and health services is hereby authorized to accept any funds from the federal government or any other public or private agency made available for training purposes for public assistance personnel and to conform with such requirements as are necessary in order to receive such funds.

Sec. 198. RCW 74.08.050 and 1971 ex.s. c 169 s 3 are each amended to read as follows:

Application for a grant in any category of public assistance shall be made to the county office by the applicant or by another on his or her behalf, and shall be reduced to writing upon standard forms prescribed by the department, and a written acknowledgment of receipt of the application by the department shall be given to each applicant at the time of making application.

Sec. 199. RCW 74.08.280 and 1987 c 406 s 10 are each amended to read as follows:

If any person receiving public assistance has demonstrated an inability to care for oneself or for money, the department may direct the payment of the installments of public assistance to any responsible person, social service agency, or corporation or to a legally appointed guardian for his or her benefit. The state may contract with persons, social service agencies, or corporations approved by the department to provide protective payee services for a fixed amount per recipient receiving protective payee services to cover administrative costs. The department may by rule specify a fee to cover administrative costs. Such fee shall not be withheld from a recipient's grant.

If the state requires the appointment of a guardian for this purpose, the department shall pay all costs and reasonable fees as fixed by the court.

Sec. 200. RCW 74.08.340 and 1997 c 58 s 102 are each amended to read as follows:

All assistance granted under this title shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may hereafter be enacted, and no recipient shall have any claim for compensation, or otherwise, by reason of his or her assistance being affected in any way by such amending or repealing act. There is no legal entitlement to public assistance.

Sec. 201. RCW 74.08.370 and 1973 c 106 s 33 are each amended to read as follows:

All old age assistance grants under this title shall be a charge against and payable out of the general fund of the state. Payment thereof shall be by warrant drawn upon vouchers duly prepared and verified by the secretary of the department of social and health services or his or her official representative.

Sec. 202. RCW 74.09.210 and 2012 c 241 s 102 are each amended to read as follows:

(1) No person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an individual public assistance recipient of health care, shall, on behalf of himself or herself or others, obtain or attempt to obtain benefits or payments under this chapter in a greater amount than that to which entitled by means of:

- (a) A willful false statement;
- (b) By willful misrepresentation, or by concealment of any material facts; or
- (c) By other fraudulent scheme or device, including, but not limited to:
 - (i) Billing for services, drugs, supplies, or equipment that were unfurnished, of lower quality, or a substitution or misrepresentation of items billed; or
 - (ii) Repeated billing for purportedly covered items, which were not in fact so covered.

(2) Any person or entity knowingly violating any of the provisions of subsection (1) of this section shall be liable for repayment of any excess benefits or payments received, plus interest at the rate and in the manner provided in RCW 43.20B.695. Such person or other entity shall further, in addition to any other penalties provided by law, be subject to civil penalties. The director or the attorney general may assess civil penalties in an amount not to exceed three times the amount of such excess benefits or payments: PROVIDED, That these civil penalties shall not apply to any acts or omissions occurring prior to September 1, 1979. RCW 43.20A.215 governs notice of a civil fine assessed by the director and provides the right to an adjudicative proceeding.

(3) A criminal action need not be brought against a person for that person to be civilly liable under this section.

(4) In all administrative proceedings under this section, service, adjudicative proceedings, and judicial review of such determinations shall be in accordance with chapter 34.05 RCW, the administrative procedure act.

(5) Civil penalties shall be deposited upon their receipt into the medicaid fraud penalty account established in RCW 74.09.215.

(6) The attorney general may contract with private attorneys and local governments in bringing actions under this section as necessary.

Sec. 203. RCW 74.09.230 and 1979 ex.s. c 152 s 4 are each amended to read as follows:

Any person, including any corporation, that

(1) knowingly makes or causes to be made any false statement or representation of a material fact in any application for any payment under any medical care program authorized under this chapter, or

(2) at any time knowingly makes or causes to be made any false statement or representation of a material fact for use in determining rights to such payment, or knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact in connection with such application or payment, or

(3) having knowledge of the occurrence of any event affecting (a) the initial or continued right to any payment, or (b) the initial or continued right to any such payment of any other individual in whose behalf he or she has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized,

shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

Sec. 204. RCW 74.12.010 and 1999 c 120 s 1 are each amended to read as follows:

For the purposes of the administration of temporary assistance for needy families, the term "dependent child" means any child in need under the age of eighteen years who is living with a relative as specified under federal temporary assistance for needy families program requirements, in a place of residence maintained by one or more of such relatives as his or her or their homes. The term a "dependent child" shall, notwithstanding the foregoing, also include a child who would meet such requirements except for his or her removal from the home of a relative specified above as a result of a judicial determination that continuation therein would be contrary to the welfare of such child, for whose placement and care the state department of social and health services or the county office is responsible, and who has been placed in a licensed or approved child care institution or foster home as a result of such determination and who:

(1) Was receiving an aid to families with dependent children grant for the month in which court proceedings leading to such determination were initiated; or (2) would have received aid to families with dependent children for such month if application had been made therefor; or (3) in the case of a child who had been living with a specified relative within six months prior to the month in which such proceedings were initiated, would have received aid to families with

dependent children for such month if in such month he or she had been living with such a relative and application had been made therefor, as authorized by the social security act.

"Temporary assistance for needy families" means money payments, services, and remedial care with respect to a dependent child or dependent children and the needy parent or relative with whom the child lives.

Sec. 205. RCW 74.12.250 and 1997 c 58 s 506 are each amended to read as follows:

If the department, after investigation, finds that any applicant for assistance under this chapter or any recipient of funds under this chapter would not use, or is not utilizing, the grant adequately for the needs of his or her child or children or would dissipate the grant or is dissipating such grant, or would be or is unable to manage adequately the funds paid on behalf of said child and that to provide or continue payments to the applicant or recipient would be contrary to the welfare of the child, the department may make such payments to another individual who is interested in or concerned with the welfare of such child and relative: PROVIDED, That the department shall provide such counseling and other services as are available and necessary to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family. Periodic review of each case shall be made by the department to determine if said relative is able to resume management of the assistance grant. If after a reasonable period of time the payments to the relative cannot be resumed, the department may request the attorney general to file a petition in the superior court for the appointment of a guardian for the child or children. Such petition shall set forth the facts warranting such appointment. Notice of the hearing on such petition shall be served upon the recipient and the department not less than ten days before the date set for such hearing. Such petition may be filed with the clerk of superior court and all process issued and served without payment of costs. If upon the hearing of such petition the court is satisfied that it is for the best interest of the child or children, and all parties concerned, that a guardian be appointed, he or she shall order the appointment, and may require the guardian to render to the court a detailed itemized account of expenditures of such assistance payments at such time as the court may deem advisable.

It is the intention of this section that the guardianship herein provided for shall be a special and limited guardianship solely for the purpose of safeguarding the assistance grants made to dependent children. Such guardianship shall terminate upon the termination of such assistance grant, or sooner on order of the court, upon good cause shown.

Sec. 206. RCW 74.13.333 and 2009 c 520 s 82 and 2009 c 491 s 11 are each reenacted and amended to read as follows:

(1) A foster parent who believes that a department or supervising agency employee has retaliated against the foster parent or in any other manner discriminated against the foster parent because:

(a) The foster parent made a complaint with the office of the family and children's (~~ombudsman~~) ombuds, the attorney general, law enforcement agencies, the department, or the supervising agency, provided information, or otherwise cooperated with the investigation of such a complaint;

(b) The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW;

(c) The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW;

(d) The foster parent has advocated for services on behalf of the foster child;

(e) The foster parent has sought to adopt a foster child in the foster parent's care; or

(f) The foster parent has discussed or consulted with anyone concerning the foster parent's rights under this chapter or chapter 74.15 or 13.34 RCW, may file a complaint with the office of the family and children's ~~((ombudsman))~~ ombuds.

(2) The ~~((ombudsman))~~ ombuds may investigate the allegations of retaliation. The ~~((ombudsman))~~ ombuds shall have access to all relevant information and resources held by or within the department by which to conduct the investigation. Upon the conclusion of its investigation, the ~~((ombudsman))~~ ombuds shall provide its findings in written form to the department.

(3) The department shall notify the office of the family and children's ~~((ombudsman))~~ ombuds in writing, within thirty days of receiving the ~~((ombudsman's))~~ ombuds's findings, of any personnel action taken or to be taken with regard to the department employee.

(4) The office of the family and children's ~~((ombudsman))~~ ombuds shall also include its recommendations regarding complaints filed under this section in its annual report pursuant to RCW 43.06A.030. The office of the family and children's ~~((ombudsman))~~ ombuds shall identify trends which may indicate a need to improve relations between the department or supervising agency and foster parents.

Sec. 207. RCW 74.13.334 and 2009 c 520 s 83 are each amended to read as follows:

The department and supervising agency shall develop procedures for responding to recommendations of the office of the family and children's ~~((ombudsman))~~ ombuds as a result of any and all complaints filed by foster parents under RCW 74.13.333.

Sec. 208. RCW 74.13.368 and 2012 c 205 s 10 are each amended to read as follows:

(1)(a) The child welfare transformation design committee is established, with members as provided in this subsection.

(i) The governor or the governor's designee;

(ii) Four private agencies that, as of May 18, 2009, provide child welfare services to children and families referred to them by the department. Two agencies must be headquartered in western Washington and two must be headquartered in eastern Washington. Two agencies must have an annual budget of at least one million state-contracted dollars and two must have an annual budget of less than one million state-contracted dollars;

(iii) The assistant secretary of the children's administration in the department;

(iv) Two regional administrators in the children's administration selected by the assistant secretary, one from one of the department's administrative regions one or two, and one from one of the department's administrative regions three, four, five, or six;

(v) The administrator for the division of licensed resources in the children's administration;

(vi) Two nationally recognized experts in performance-based contracts;

(vii) The attorney general or the attorney general's designee;

(viii) A representative of the collective bargaining unit that represents the largest number of employees in the children's administration;

(ix) A representative from the office of the family and children's ((ombudsman)) ombuds;

(x) Four representatives from the Indian policy advisory committee convened by the department's office of Indian policy and support services;

(xi) Two currently elected or former superior court judges with significant experience in dependency matters, selected by the superior court judges' association;

(xii) One representative from partners for our children affiliated with the University of Washington school of social work;

(xiii) A member of the Washington state racial disproportionality advisory committee;

(xiv) A foster parent;

(xv) A youth currently in or a recent alumnus of the Washington state foster care system, to be designated by the cochairs of the committee; and

(xvi) A parent representative who has had personal experience with the dependency system.

(b) The president of the senate and the speaker of the house of representatives shall jointly appoint the members under (a)(ii), (xiv), and (xvi) of this subsection.

(c) The representative from partners for our children shall convene the initial meeting of the committee no later than June 15, 2009.

(d) The cochairs of the committee shall be the assistant secretary for the children's administration and another member selected by a majority vote of those members present at the initial meeting.

(2) The committee shall establish a transition plan containing recommendations to the legislature and the governor consistent with this section for the provision of child welfare services by supervising agencies pursuant to RCW 74.13.360.

(3) The plan shall include the following:

(a) A model or framework for performance-based contracts to be used by the department that clearly defines:

(i) The target population;

(ii) The referral and exit criteria for the services;

(iii) The child welfare services including the use of evidence-based services and practices to be provided by contractors;

(iv) The roles and responsibilities of public and private agency workers in key case decisions;

(v) Contract performance and outcomes, including those related to eliminating racial disparities in child outcomes;

(vi) That supervising agencies will provide culturally competent service;

(vii) How to measure whether each contractor has met the goals listed in RCW 74.13.360(4); and

(viii) Incentives to meet performance outcomes;

(b) A method or methods by which clients will access community-based services, how private supervising agencies will engage other services or form local service networks, develop subcontracts, and share information and supervision of children;

(c) Methods to address the effects of racial disproportionality, as identified in the 2008 Racial Disproportionality Advisory Committee Report published by the Washington state institute for public policy in June 2008;

(d) Methods for inclusion of the principles and requirements of the centennial accord executed in November 2001, executed between the state of Washington and federally recognized tribes in Washington state;

(e) Methods for assuring performance-based contracts adhere to the letter and intent of the federal Indian child welfare act;

(f) Contract monitoring and evaluation procedures that will ensure that children and families are receiving timely and quality services and that contract terms are being implemented;

(g) A method or methods by which to ensure that the children's administration has sufficiently trained and experienced staff to monitor and manage performance-based contracts;

(h) A process by which to expand the capacity of supervising and other private agencies to meet the service needs of children and families in a performance-based contractual arrangement;

(i) A method or methods by which supervising and other private agencies can expand services in underserved areas of the state;

(j) The appropriate amounts and procedures for the reimbursement of supervising agencies given the proposed services restructuring;

(k) A method by which to access and enhance existing data systems to include contract performance information;

(l) A financing arrangement for the contracts that examines:

(i) The use of case rates or performance-based fee-for-service contracts that include incentive payments or payment schedules that link reimbursement to outcomes; and

(ii) Ways to reduce a contractor's financial risk that could jeopardize the solvency of the contractor, including consideration of the use of a risk-reward corridor that limits risk of loss and potential profits or the establishment of a statewide risk pool;

(m) A description of how the transition will impact the state's ability to obtain federal funding and examine options to further maximize federal funding opportunities and increased flexibility;

(n) A review of whether current administrative staffing levels in the regions should be continued when the majority of child welfare services are being provided by supervising agencies;

(o) A description of the costs of the transition, the initial start-up costs and the mechanisms to periodically assess the overall adequacy of funds and the fiscal impact of the changes, and the feasibility of the plan and the impact of the plan on department employees during the transition; and

(p) Identification of any statutory and regulatory revisions necessary to accomplish the transition.

(4)(a) The committee, with the assistance of the department, shall select two demonstration sites within which to implement chapter 520, Laws of 2009. One

site must be located on the eastern side of the state. The other site must be located on the western side of the state. Neither site must be wholly located in any of the department's administrative regions.

(b) The committee shall develop two sets of performance outcomes to be included in the performance-based contracts the department enters into with supervising agencies. The first set of outcomes shall be used for those cases transferred to a supervising agency over time. The second set of outcomes shall be used for new entrants to the child welfare system.

(c) The committee shall also identify methods for ensuring that comparison of performance between supervising agencies and the existing service delivery system takes into account the variation in the characteristics of the populations being served as well as historical trends in outcomes for those populations.

(5) The committee shall determine the appropriate size of the child and family populations to be provided services under performance-based contracts with supervising agencies. The committee shall also identify the time frame within which cases will be transferred to supervising agencies. The performance-based contracts entered into with supervising agencies shall encompass the provision of child welfare services to enough children and families in each demonstration site to allow for the assessment of whether there are meaningful differences, to be defined by the committee, between the outcomes achieved in the demonstration sites and the comparison sites or populations. To ensure adequate statistical power to assess these differences, the populations served shall be large enough to provide a probability greater than seventy percent that meaningful difference will be detected and a ninety-five percent probability that observed differences are not due to chance alone.

(6) The committee shall also prepare as part of the plan a recommendation as to how to implement chapter 520, Laws of 2009 so that full implementation of chapter 520, Laws of 2009 is achieved no later than December 30, 2015.

(7) The committee shall prepare the plan to manage the delivery of child welfare services in a manner that achieves coordination of the services and programs that deliver primary prevention services.

(8) Beginning June 30, 2009, the committee shall report quarterly to the governor and the legislative children's oversight committee established in RCW 44.04.220. From June 30, 2012, until December 30, 2015, the committee need only report twice a year. The committee shall report on its progress in meeting its duties under subsections (2) and (3) of this section and on any other matters the committee or the legislative children's oversight committee or the governor deems appropriate. The portion of the plan required in subsection (6) of this section shall be due to the legislative children's oversight committee on or before June 1, 2010. The reports shall be in written form.

(9) The committee, by majority vote, may establish advisory committees as it deems necessary.

(10) All state executive branch agencies and the agencies with whom the department contracts for child welfare services shall cooperate with the committee and provide timely information as the chair or cochairs may request. Cooperation by the children's administration must include developing and scheduling training for supervising agencies to access data and information necessary to implement and monitor the contracts.

(11) It is expected that the administrative costs for the committee will be supported through private funds.

(12) The committee is subject to chapters 42.30 (open public meetings act) and 42.52 (ethics in public service) RCW.

(13) This section expires July 1, 2016.

Sec. 209. RCW 74.13.640 and 2011 c 61 s 2 are each amended to read as follows:

(1)(a) The department shall conduct a child fatality review in the event of a fatality suspected to be caused by child abuse or neglect of any minor who is in the care of the department or a supervising agency or receiving services described in this chapter or who has been in the care of the department or a supervising agency or received services described in this chapter within one year preceding the minor's death.

(b) The department shall consult with the office of the family and children's (~~ombudsman~~) ombuds to determine if a child fatality review should be conducted in any case in which it cannot be determined whether the child's death is the result of suspected child abuse or neglect.

(c) The department shall ensure that the fatality review team is made up of individuals who had no previous involvement in the case, including individuals whose professional expertise is pertinent to the dynamics of the case.

(d) Upon conclusion of a child fatality review required pursuant to this section, the department shall within one hundred eighty days following the fatality issue a report on the results of the review, unless an extension has been granted by the governor. Reports must be distributed to the appropriate committees of the legislature, and the department shall create a public web site where all child fatality review reports required under this section must be posted and maintained. A child fatality review report completed pursuant to this section is subject to public disclosure and must be posted on the public web site, except that confidential information may be redacted by the department consistent with the requirements of RCW 13.50.100, 68.50.105, 74.13.500 through 74.13.525, chapter 42.56 RCW, and other applicable state and federal laws.

(e) The department shall develop and implement procedures to carry out the requirements of this section.

(2) In the event of a near fatality of a child who is in the care of or receiving services described in this chapter from the department or a supervising agency or who has been in the care of or received services described in this chapter from the department or a supervising agency within one year preceding the near fatality, the department shall promptly notify the office of the family and children's (~~ombudsman~~) ombuds. The department may conduct a review of the near fatality at its discretion or at the request of the office of the family and children's (~~ombudsman~~) ombuds.

(3) In any review of a child fatality or near fatality in which the child was placed with or received services from a supervising agency pursuant to a contract with the department, the department and the fatality review team shall have access to all records and files regarding the child or otherwise relevant to the review that have been produced or retained by the supervising agency.

(4)(a) A child fatality or near fatality review completed pursuant to this section is subject to discovery in a civil or administrative proceeding, but may

not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to this section.

(b) A department employee responsible for conducting a child fatality or near fatality review, or member of a child fatality or near fatality review team, may not be examined in a civil or administrative proceeding regarding (i) the work of the child fatality or near fatality review team, (ii) the incident under review, (iii) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the child fatality or near fatality review team or the incident under review, or (iv) the statements, deliberations, thoughts, analyses, or impressions of any other member of the child fatality or near fatality review team, or any person who provided information to the child fatality or near fatality review team, relating to the work of the child fatality or near fatality review team or the incident under review.

(c) Documents prepared by or for a child fatality or near fatality review team are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a child fatality or near fatality review, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by a child fatality or near fatality review team. A person is not unavailable as a witness merely because the person has been interviewed by or has provided a statement for a child fatality or near fatality review, but if called as a witness, a person may not be examined regarding the person's interactions with the child fatality or near fatality review including, without limitation, whether the person was interviewed during such review, the questions that were asked during such review, and the answers that the person provided during such review. This section may not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(d) The restrictions set forth in this section do not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with a minor's death or near fatality reviewed by a child fatality or near fatality review team.

Sec. 210. RCW 74.13A.025 and 1996 c 130 s 1 are each amended to read as follows:

The factors to be considered by the secretary in setting the amount of any payment or payments to be made pursuant to RCW 26.33.320 and (~~74.13.100~~) 74.13A.005 through (~~74.13.145~~) 74.13A.080 and in adjusting standards hereunder shall include: The size of the family including the adoptive child, the usual living expenses of the family, the special needs of any family member including education needs, the family income, the family resources and plan for savings, the medical and hospitalization needs of the family, the family's means of purchasing or otherwise receiving such care, and any other expenses likely to be needed by the child to be adopted. In setting the amount of any initial payment made pursuant to RCW 26.33.320 and (~~74.13.100~~) 74.13A.005 through (~~74.13.145~~) 74.13A.080, the secretary is authorized to establish maximum payment amounts that are reasonable and allow permanency planning goals related to adoption of children under RCW 13.34.145 to be achieved at the earliest possible date.

The amounts paid for the support of a child pursuant to RCW 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080 may vary from family to family and from year to year. Due to changes in economic circumstances or the needs of the child such payments may be discontinued and later resumed.

Payments under RCW 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080 may be continued by the secretary subject to review as provided for herein, if such parent or parents having such child in their custody establish their residence in another state or a foreign jurisdiction.

In fixing the standards to govern the amount and character of payments to be made for the support of adopted children pursuant to RCW 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080 and before issuing rules and regulations to carry out the provisions of RCW 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080, the secretary shall consider the comments and recommendations of the committee designated by the secretary to advise him or her with respect to child welfare.

Sec. 211. RCW 74.13A.040 and 2009 c 527 s 1 are each amended to read as follows:

(1) Any parent who is a party to an agreement under RCW ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080 may at any time, in writing, request, for reasons set forth in such request, a review of the amount of any payment or the level of continuing payments. The review shall begin not later than thirty days from the receipt of such request. Any adjustment may be made retroactive to the date such request was received by the secretary. If such request is not acted on within thirty days after it has been received by the secretary, such parent may invoke his or her rights under the hearing provisions set forth in RCW ~~((74.13.127))~~ 74.13A.055.

(2) The secretary may make adjustments in payments at the time of the review, or at other times, if the secretary finds that circumstances have changed and warrant an adjustment in payments. Changes in circumstances may include, but are not limited to, variations in medical opinions, prognosis, and costs. Appropriate adjustments in payments shall be made based upon changes in the needs of the child and/or changes in the adoptive parents' income, resources, and expenses for the care of such child or other members of the family, including medical and/or hospitalization expense not otherwise covered by or subject to reimbursement from insurance or other sources of financial assistance.

Sec. 212. RCW 74.13A.075 and 1985 c 7 s 145 are each amended to read as follows:

As used in RCW 26.33.320 and ~~((74.13.100))~~ 74.13A.005 through ~~((74.13.145))~~ 74.13A.080 the following definitions shall apply:

(1) "Secretary" means the secretary of the department of social and health services or his or her designee.

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

Sec. 213. RCW 74.15.140 and 1979 c 141 s 363 are each amended to read as follows:

Notwithstanding the existence or pursuit of any other remedy, the secretary may, in the manner provided by law, upon the advice of the attorney general, who shall represent the department in the proceeding, maintain an action in the

name of the state for injunction or such other relief as he or she may deem advisable against any agency subject to licensing under the provisions of chapter 74.15 RCW and RCW 74.13.031 or against any such agency not having a license as heretofore provided in chapter 74.15 RCW and RCW 74.13.031.

Sec. 214. RCW 74.20.260 and 1979 c 141 s 368 are each amended to read as follows:

Any parent in the state whose absence is the basis upon which an application is filed for public assistance on behalf of a child shall be required to complete a statement, under oath, of his or her current monthly income, his or her total income over the past twelve months, the number of dependents for whom he or she is providing support, the amount he or she is contributing regularly toward the support of all children for whom application for such assistance is made, his or her current monthly living expenses, and such other information as is pertinent to determining his or her ability to support his or her children. Such statement shall be provided upon demand made by the state department of social and health services or attorney general, and if assistance based upon such application is granted on behalf of such child, additional statements shall be filed annually thereafter with the state department of social and health services until such time as the child is no longer receiving such assistance. Failure to comply with this section shall constitute a misdemeanor.

Sec. 215. RCW 74.20A.040 and 1989 c 360 s 8 are each amended to read as follows:

(1) The secretary may issue a notice of a support debt accrued and/or accruing based upon RCW 74.20A.030, assignment of a support debt or a request for support enforcement services under RCW 74.20.040 (2) or (3), to enforce and collect a support debt created by a superior court order or administrative order. The payee under the order shall be informed when a notice of support debt is issued under this section.

(2) The notice may be served upon the debtor in the manner prescribed for the service of a summons in a civil action or be mailed to the debtor at his or her last known address by certified mail, return receipt requested, demanding payment within twenty days of the date of receipt.

(3) The notice of debt shall include:

(a) A statement of the support debt accrued and/or accruing, computable on the amount required to be paid under any superior court order to which the department is subrogated or is authorized to enforce and collect under RCW 74.20A.030, has an assigned interest, or has been authorized to enforce pursuant to RCW 74.20.040 (2) or (3);

(b) A statement that the property of the debtor is subject to collection action;

(c) A statement that the property is subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and

(d) A statement that the net proceeds will be applied to the satisfaction of the support debt.

(4) Action to collect a support debt by lien and foreclosure, or distraint, seizure and sale, or order to withhold and deliver shall be lawful after twenty days from the date of service upon the debtor or twenty days from the receipt or refusal by the debtor of said notice of debt.

(5) The secretary shall not be required to issue or serve such notice of support debt prior to taking collection action under this chapter when a responsible parent's support order:

(a) Contains language directing the parent to make support payments to the Washington state support registry; and

(b) Includes a statement that income-withholding action under this chapter may be taken without further notice to the responsible parent, as provided in RCW 26.23.050(1).

Sec. 216. RCW 74.20A.130 and 1987 c 435 s 32 are each amended to read as follows:

Whenever a support lien has been filed pursuant to RCW 74.20A.060, the secretary may collect the support debt stated in said lien by the distraint, seizure, and sale of the property subject to said lien. Not less than ten days prior to the date of sale, the secretary shall cause a copy of the notice of sale to be transmitted by regular mail and by any form of mailing requiring a return receipt to the debtor and any person known to have or claim an interest in the property. Said notice shall contain a general description of the property to be sold and the time, date, and place of the sale. The notice of sale shall be posted in at least two public places in the county wherein the distraint has been made. The time of sale shall not be less than ten nor more than twenty days from the date of posting of such notices. Said sale shall be conducted by the secretary, who shall proceed to sell such property by parcel or by lot at a public auction, and who may set a minimum reasonable price to include the expenses of making a levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the price so fixed, the secretary may declare such property to be purchased by the department for such price, or may conduct another sale of such property pursuant to the provisions of this section. In the event of sale, the debtor's account shall be credited with the amount for which the property has been sold. Property acquired by the department as herein prescribed may be sold by the secretary at public or private sale, and the amount realized shall be placed in the state general fund to the credit of the department of social and health services. In all cases of sale, as aforesaid, the secretary shall issue a bill of sale or a deed to the purchaser and said bill of sale or deed shall be prima facie evidence of the right of the secretary to make such sale and conclusive evidence of the regularity of his or her proceeding in making the sale, and shall transfer to the purchaser all right, title, and interest of the debtor in said property. The proceeds of any such sale, except in those cases wherein the property has been acquired by the department, shall be first applied by the secretary to reimbursement of the costs of distraint and sale, and thereafter in satisfaction of the delinquent account. Any excess which shall thereafter remain in the hands of the secretary shall be refunded to the debtor. Sums so refundable to a debtor may be subject to seizure or distraint by any taxing authority of the state or its political subdivisions or by the secretary for new sums due and owing subsequent to the subject proceeding. Except as specifically provided in this chapter, there shall be exempt from distraint, seizure, and sale under this chapter such property as is exempt therefrom under the laws of this state.

Sec. 217. RCW 74.20A.150 and 1973 1st ex.s. c 183 s 14 are each amended to read as follows:

Any person owning real property, or any interest in real property, against which a support lien has been filed and foreclosure instituted, shall have the right to pay the amount due, together with expenses of the proceedings and reasonable attorneys' fees to the secretary and upon such payment the secretary shall restore said property to him or her and all further proceedings in the said foreclosure action shall cease. Said person shall also have the right within two hundred forty days after sale of property foreclosed under RCW 74.20A.140 to redeem said property by making payment to the purchaser in the amount paid by the purchaser plus interest thereon at the rate of six percent per annum.

Sec. 218. RCW 74.34.095 and 2000 c 87 s 4 are each amended to read as follows:

(1) The following information is confidential and not subject to disclosure, except as provided in this section:

(a) A report of abandonment, abuse, financial exploitation, or neglect made under this chapter;

(b) The identity of the person making the report; and

(c) All files, reports, records, communications, and working papers used or developed in the investigation or provision of protective services.

(2) Information considered confidential may be disclosed only for a purpose consistent with this chapter or as authorized by chapter 18.20, 18.51, or 74.39A RCW, or as authorized by the long-term care ((~~ombudsman~~)) ombuds programs under federal law or state law, chapter 43.190 RCW.

(3) A court or presiding officer in an administrative proceeding may order disclosure of confidential information only if the court, or presiding officer in an administrative proceeding, determines that disclosure is essential to the administration of justice and will not endanger the life or safety of the vulnerable adult or individual who made the report. The court or presiding officer in an administrative hearing may place restrictions on such disclosure as the court or presiding officer deems proper.

Sec. 219. RCW 74.34.200 and 1999 c 176 s 15 are each amended to read as follows:

(1) In addition to other remedies available under the law, a vulnerable adult who has been subjected to abandonment, abuse, financial exploitation, or neglect either while residing in a facility or in the case of a person residing at home who receives care from a home health, hospice, or home care agency, or an individual provider, shall have a cause of action for damages on account of his or her injuries, pain and suffering, and loss of property sustained thereby. This action shall be available where the defendant is or was a corporation, trust, unincorporated association, partnership, administrator, employee, agent, officer, partner, or director of a facility, or of a home health, hospice, or home care agency licensed or required to be licensed under chapter 70.127 RCW, as now or subsequently designated, or an individual provider.

(2) It is the intent of the legislature, however, that where there is a dispute about the care or treatment of a vulnerable adult, the parties should use the least formal means available to try to resolve the dispute. Where feasible, parties are encouraged but not mandated to employ direct discussion with the health care provider, use of the long-term care ((~~ombudsman~~)) ombuds or other

intermediaries, and, when necessary, recourse through licensing or other regulatory authorities.

(3) In an action brought under this section, a prevailing plaintiff shall be awarded his or her actual damages, together with the costs of the suit, including a reasonable attorneys' fee. The term "costs" includes, but is not limited to, the reasonable fees for a guardian, guardian ad litem, and experts, if any, that may be necessary to the litigation of a claim brought under this section.

Sec. 220. RCW 76.09.100 and 1975 1st ex.s. c 200 s 7 are each amended to read as follows:

If the department of ecology determines that a person has failed to comply with the forest practices regulations relating to water quality protection, and that the department of natural resources has not issued a stop work order or notice to comply, the department of ecology shall inform the department thereof. If the department of natural resources fails to take authorized enforcement action within twenty-four hours under RCW 76.09.080, 76.09.090, 76.09.120, or 76.09.130, the department of ecology may petition to the ((~~chairman~~)) chair of the appeals board, who shall, within forty-eight hours, either deny the petition or direct the department of natural resources to immediately issue a stop work order or notice to comply, or to impose a penalty. No civil or criminal penalties shall be imposed for past actions or omissions if such actions or omissions were conducted pursuant to an approval or directive of the department of natural resources.

Sec. 221. RCW 76.36.100 and 1925 ex.s. c 154 s 10 are each amended to read as follows:

The owner of any mark or brand registered as herein provided, by himself or herself or his or her duly authorized agent or representative, shall have a lawful right, at any time and in any peaceable manner, to enter into or upon any tidelands, marshes, and beaches of this state and any mill, mill yard, mill boom, rafting, or storage grounds and any forest products or raft or boom thereof, for the purpose of searching for any forest products and booming equipment having impressed thereupon or cut therein a registered mark or brand belonging to him or her and to retake any forest products and booming equipment so found by him or her.

Sec. 222. RCW 74.36.110 and 1971 ex.s. c 169 s 10 are each amended to read as follows:

The secretary of the department of social and health services or his or her designee is authorized to allot for such purposes all or a portion of whatever state funds the legislature appropriates or are otherwise made available for the purpose of matching local funds dedicated to community programs and projects for the aging. The purpose of RCW 74.36.110 through 74.36.130 is to stimulate and assist local communities to obtain federal funds made available under the federal older Americans act of 1965 as amended.

Sec. 223. RCW 74.36.120 and 1971 ex.s. c 169 s 11 are each amended to read as follows:

(1) The secretary or his or her designee shall adopt and set forth standards for determining the eligibility and approval of community projects and priorities therefor, and shall have final authority to approve or deny such projects and funding requested under RCW 74.36.110 through 74.36.130.

(2) Only community project proposals submitted by local public agencies, by private nonprofit agencies or organizations, or by public or other nonprofit institutions of higher education, shall be eligible for approval.

(3) Any community project applicant whose application for approval is denied will be afforded an opportunity for an informal hearing before the secretary or his or her designee, but the administrative procedure act, chapter 34.05 RCW, shall not apply.

Sec. 224. RCW 74.36.130 and 1971 ex.s. c 169 s 12 are each amended to read as follows:

(1) State funds made available under RCW 74.36.110 through 74.36.130 for any project shall not exceed fifty per centum of the nonfederal share of the costs. To the extent that federal law permits, and the secretary or his or her designee deems appropriate, the local community share and/or the state share may be in the form of cash or in-kind resources.

(2) Payments made under RCW 74.36.110 through 74.36.130 may be made in advance or by way of reimbursement, and in such installments and on such conditions as the secretary or his or her designee may determine, including provisions for adequate accounting systems, reasonable record retention periods, and financial audits.

Sec. 225. RCW 74.38.040 and 1983 c 290 s 14 are each amended to read as follows:

The community based services for low-income eligible persons provided by the department or the respective area agencies may include:

(1) Access services designed to provide identification of eligible persons, assessment of individual needs, reference to the appropriate service, and follow-up service where required. These services shall include information and referral, outreach, transportation, and counseling;

(2) Day care offered on a regular, recurrent basis. General nursing, rehabilitation, personal care, nutritional services, social casework, mental health as provided pursuant to chapter 71.24 RCW, and/or limited transportation services may be made available within this program;

(3) In-home care for persons, including basic health care; performance of various household tasks and other necessary chores, or, a combination of these services;

(4) Counseling on death for the terminally ill and care and attendance at the time of death; except, that this is not to include reimbursement for the use of life-sustaining mechanisms;

(5) Health services which will identify health needs and which are designed to avoid institutionalization; assist in securing admission to medical institutions or other health related facilities when required; and, assist in obtaining health services from public or private agencies or providers of health services. These services shall include health screening and evaluation, in-home services, health education, and such health appliances which will further the independence and well-being of the person;

(6) The provision of low-cost, nutritionally sound meals in central locations or in the person's home in the instance of incapacity. Also, supportive services may be provided in nutritional education, shopping assistance, diet counseling, and other services to sustain the nutritional well-being of these persons;

(7) The provisions of services to maintain a person's home in a state of adequate repair, insofar as is possible, for their safety and comfort. These services shall be limited, but may include housing counseling, minor repair and maintenance, and moving assistance when such repair will not attain standards of health and safety, as determined by the department;

(8) Civil legal services, as limited by RCW 2.50.100, for counseling and representation in the areas of housing, consumer protection, public entitlements, property, and related fields of law;

(9) Long-term care ((~~ombudsman~~)) ombuds programs for residents of all long-term care facilities.

Sec. 226. RCW 74.38.050 and 1983 c 290 s 15 are each amended to read as follows:

The services provided in RCW 74.38.040 may be provided to nonlow-income eligible persons: PROVIDED, That the department and the area agencies on aging shall utilize volunteer workers and public assistant recipients to the maximum extent possible to provide the services provided in RCW 74.38.040: PROVIDED, FURTHER, That the department and the area agencies shall utilize the bid procedure pursuant to chapter 43.19 RCW for providing such services to low-income and nonlow-income persons whenever the services to be provided are available through private agencies at a cost savings to the department. The department shall establish a fee schedule based on the ability to pay and graduated to full recovery of the cost of the service provided; except, that nutritional services, health screening, services under the long-term care ((~~ombudsman~~)) ombuds program under chapter 43.190 RCW, and access services provided in RCW 74.38.040 shall not be based on need and no fee shall be charged; except further, notwithstanding any other provision of this chapter, that well-adult clinic services may be provided in lieu of health screening services if such clinics use the fee schedule established by this section.

Sec. 227. RCW 74.39A.060 and 2001 c 193 s 1 are each amended to read as follows:

(1) The aging and adult services administration of the department shall establish and maintain a toll-free telephone number for receiving complaints regarding a facility that the administration licenses or with which it contracts for long-term care services.

(2) All facilities that are licensed by, or that contract with the aging and adult services administration to provide chronic long-term care services shall post in a place and manner clearly visible to residents and visitors the department's toll-free complaint telephone number and the toll-free number and program description of the long-term care ((~~ombudsman~~)) ombuds as provided by RCW 43.190.050.

(3) The aging and adult services administration shall investigate complaints if the subject of the complaint is within its authority unless the department determines that: (a) The complaint is intended to willfully harass a licensee or employee of the licensee; or (b) there is no reasonable basis for investigation; or (c) corrective action has been taken as determined by the ((~~ombudsman~~)) ombuds or the department.

(4) The aging and adult services administration shall refer complaints to appropriate state agencies, law enforcement agencies, the attorney general, the

long-term care ((ombudsman)) ombuds, or other entities if the department lacks authority to investigate or if its investigation reveals that a follow-up referral to one or more of these entities is appropriate.

(5) The department shall adopt rules that include the following complaint investigation protocols:

(a) Upon receipt of a complaint, the department shall make a preliminary review of the complaint, assess the severity of the complaint, and assign an appropriate response time. Complaints involving imminent danger to the health, safety, or well-being of a resident must be responded to within two days. When appropriate, the department shall make an on-site investigation within a reasonable time after receipt of the complaint or otherwise ensure that complaints are responded to.

(b) The complainant must be: Promptly contacted by the department, unless anonymous or unavailable despite several attempts by the department, and informed of the right to discuss the alleged violations with the inspector and to provide other information the complainant believes will assist the inspector; informed of the department's course of action; and informed of the right to receive a written copy of the investigation report.

(c) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to interview the vulnerable adult or adults allegedly harmed, and, consistent with the protection of the vulnerable adult shall interview facility staff, any available independent sources of relevant information, including if appropriate the family members of the vulnerable adult.

(d) Substantiated complaints involving harm to a resident, if an applicable law or rule has been violated, shall be subject to one or more of the actions provided in RCW 74.39A.080 or 70.128.160. Whenever appropriate, the department shall also give consultation and technical assistance to the provider.

(e) After a department finding of a violation for which a stop placement has been imposed, the department shall make an on-site revisit of the provider within fifteen working days from the request for revisit, to ensure correction of the violation. For violations that are serious or recurring or uncorrected following a previous citation, and create actual or threatened harm to one or more residents' well-being, including violations of residents' rights, the department shall make an on-site revisit as soon as appropriate to ensure correction of the violation. Verification of correction of all other violations may be made by either a department on-site revisit or by written or photographic documentation found by the department to be credible. This subsection does not prevent the department from enforcing license or contract suspensions or revocations. Nothing in this subsection shall interfere with or diminish the department's authority and duty to ensure that the provider adequately cares for residents, including to make departmental on-site revisits as needed to ensure that the provider protects residents and to enforce compliance with this chapter.

(f) Substantiated complaints of neglect, abuse, exploitation, or abandonment of residents, or suspected criminal violations, shall also be referred by the department to the appropriate law enforcement agencies, the attorney general, and appropriate professional disciplining authority.

(6) The department may provide the substance of the complaint to the licensee or contractor before the completion of the investigation by the

department unless such disclosure would reveal the identity of a complainant, witness, or resident who chooses to remain anonymous. Neither the substance of the complaint provided to the licensee or contractor nor any copy of the complaint or related report published, released, or made otherwise available shall disclose, or reasonably lead to the disclosure of, the name, title, or identity of any complainant, or other person mentioned in the complaint, except that the name of the provider and the name or names of any officer, employee, or agent of the department conducting the investigation shall be disclosed after the investigation has been closed and the complaint has been substantiated. The department may disclose the identity of the complainant if such disclosure is requested in writing by the complainant. Nothing in this subsection shall be construed to interfere with the obligation of the long-term care ((ombudsman)) ombuds program or department staff to monitor the department's licensing, contract, and complaint investigation files for long-term care facilities.

(7) The resident has the right to be free of interference, coercion, discrimination, and reprisal from a facility in exercising his or her rights, including the right to voice grievances about treatment furnished or not furnished. A facility that provides long-term care services shall not discriminate or retaliate in any manner against a resident, employee, or any other person on the basis or for the reason that such resident or any other person made a complaint to the department, the attorney general, law enforcement agencies, or the long-term care ((ombudsman)) ombuds, provided information, or otherwise cooperated with the investigation of such a complaint. Any attempt to discharge a resident against the resident's wishes, or any type of retaliatory treatment of a resident by whom or upon whose behalf a complaint substantiated by the department has been made to the department, the attorney general, law enforcement agencies, or the long-term care ((ombudsman)) ombuds, within one year of the filing of the complaint, raises a rebuttable presumption that such action was in retaliation for the filing of the complaint. "Retaliatory treatment" means, but is not limited to, monitoring a resident's phone, mail, or visits; involuntary seclusion or isolation; transferring a resident to a different room unless requested or based upon legitimate management reasons; withholding or threatening to withhold food or treatment unless authorized by a terminally ill resident or his or her representative pursuant to law; or persistently delaying responses to a resident's request for service or assistance. A facility that provides long-term care services shall not willfully interfere with the performance of official duties by a long-term care ((ombudsman)) ombuds. The department shall sanction and may impose a civil penalty of not more than three thousand dollars for a violation of this subsection.

Sec. 228. RCW 74.39A.380 and 2011 1st sp.s. c 3 s 502 are each amended to read as follows:

(1) Subject to funding provided for this specific purpose, the department of social and health services shall develop for phased-in implementation a statewide internal quality review and accountability program for residential care services. The program must be designed to enable the department to improve the accountability of staff and the consistent application of investigative activities across all long-term care settings, and must allow the systematic monitoring and evaluation of long-term care licensing and certification. The program must be designed to improve and standardize investigative outcomes

for the vulnerable individuals at risk of abuse and neglect, and coordinate outcomes across the department to prevent perpetrators from changing settings and continuing to work with vulnerable adults.

(2) The department shall convene a quality assurance panel to review problems in the quality of care in adult family homes and to reduce incidents of abuse, neglect, abandonment, and financial exploitation. The state's long-term care ((ombudsman)) ombuds shall chair the panel and identify appropriate stakeholders to participate. The panel must consider inspection, investigation, public complaint, and enforcement issues that relate to adult family homes. The panel must also focus on oversight issues to address de minimis violations, processes for handling unresolved citations, and better ways to oversee new providers. The panel shall meet at least quarterly, and provide a report with recommendations to the governor's office, the senate health and long-term care committee, and the house of representatives health and wellness committee by December 1, 2012.

Sec. 229. RCW 74.42.450 and 1997 c 392 s 216 are each amended to read as follows:

(1) The facility shall admit as residents only those individuals whose needs can be met by:

- (a) The facility;
- (b) The facility cooperating with community resources; or
- (c) The facility cooperating with other providers of care affiliated or under contract with the facility.

(2) The facility shall transfer a resident to a hospital or other appropriate facility when a change occurs in the resident's physical or mental condition that requires care or service that the facility cannot provide. The resident, the resident's guardian, if any, the resident's next of kin, the attending physician, and the department shall be consulted at least fifteen days before a transfer or discharge unless the resident is transferred under emergency circumstances. The department shall use casework services or other means to insure that adequate arrangements are made to meet the resident's needs.

(3) A resident shall be transferred or discharged only for medical reasons, the resident's welfare or request, the welfare of other residents, or nonpayment. A resident may not be discharged for nonpayment if the discharge would be prohibited by the medicaid program.

(4) If a resident chooses to remain in the nursing facility, the department shall respect that choice, provided that if the resident is a medicaid recipient, the resident continues to require a nursing facility level of care.

(5) If the department determines that a resident no longer requires a nursing facility level of care, the resident shall not be discharged from the nursing facility until at least thirty days after written notice is given to the resident, the resident's surrogate decision maker and, if appropriate, a family member or the resident's representative. A form for requesting a hearing to appeal the discharge decision shall be attached to the written notice. The written notice shall include at least the following:

- (a) The reason for the discharge;
- (b) A statement that the resident has the right to appeal the discharge; and
- (c) The name, address, and telephone number of the state long-term care ((ombudsman)) ombuds.

(6) If the resident appeals a department discharge decision, the resident shall not be discharged without the resident's consent until at least thirty days after a final order is entered upholding the decision to discharge the resident.

(7) Before the facility transfers or discharges a resident, the facility must first attempt through reasonable accommodations to avoid the transfer or discharge unless the transfer or discharge is agreed to by the resident. The facility shall admit or retain only individuals whose needs it can safely and appropriately serve in the facility with available staff or through the provision of reasonable accommodations required by state or federal law. "Reasonable accommodations" has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

Sec. 230. RCW 74.42.640 and 2006 c 209 s 13 are each amended to read as follows:

(1) To ensure the proper delivery of services and the maintenance and improvement in quality of care through self-review, each facility may maintain a quality assurance committee that, at a minimum, includes:

- (a) The director of nursing services;
- (b) A physician designated by the facility; and
- (c) Three other members from the staff of the facility.

(2) When established, the quality assurance committee shall meet at least quarterly to identify issues that may adversely affect quality of care and services to residents and to develop and implement plans of action to correct identified quality concerns or deficiencies in the quality of care provided to residents.

(3) To promote quality of care through self-review without the fear of reprisal, and to enhance the objectivity of the review process, the department shall not require, and the long-term care (~~ombudsman~~) ombuds program shall not request, disclosure of any quality assurance committee records or reports, unless the disclosure is related to the committee's compliance with this section, if:

(a) The records or reports are not maintained pursuant to statutory or regulatory mandate; and

(b) The records or reports are created for and collected and maintained by the committee.

(4) The department may request only information related to the quality assurance committee that may be necessary to determine whether a facility has a quality assurance committee and that it is operating in compliance with this section.

(5) Good faith attempts by the committee to identify and correct quality deficiencies shall not be used as a basis for imposing sanctions.

(6) If the facility offers the department documents generated by, or for, the quality assurance committee as evidence of compliance with nursing facility requirements, the documents are protected as quality assurance committee documents under subsections (7) and (9) of this section when in the possession of the department. The department is not liable for an inadvertent disclosure, a disclosure related to a required federal or state audit, or disclosure of documents incorrectly marked as quality assurance committee documents by the facility.

(7) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a

quality assurance committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the care that is the basis of the civil action whose involvement was independent of any quality improvement committee activity; and (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of their participation in the quality assurance committee activities.

(8) A quality assurance committee under subsection (1) of this section, RCW 18.20.390, 70.41.200, 4.24.250, or 43.70.510 may share information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, the committee, with one or more other quality assurance committees created under subsection (1) of this section, RCW 18.20.390, 70.41.200, 4.24.250, or 43.70.510 for the improvement of the quality of care and services rendered to nursing facility residents. Information and documents disclosed by one quality assurance committee to another quality assurance committee and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsections (7) and (9) of this section, RCW 18.20.390 (6) and (8), 43.70.510(4), 70.41.200(3), and 4.24.250(1). The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws.

(9) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are exempt from disclosure under chapter 42.56 RCW.

(10) Notwithstanding any records created for the quality assurance committee, the facility shall fully set forth in the resident's records, available to the resident, the department, and others as permitted by law, the facts concerning any incident of injury or loss to the resident, the steps taken by the facility to address the resident's needs, and the resident outcome.

(11) A facility operated as part of a hospital licensed under chapter 70.41 RCW may maintain a quality assurance committee in accordance with this section which shall be subject to the provisions of subsections (1) through (10) of this section or may conduct quality improvement activities for the facility through a quality improvement committee under RCW 70.41.200 which shall be subject to the provisions of RCW 70.41.200(9).

Sec. 231. RCW 76.09.320 and 1987 c 95 s 6 are each amended to read as follows:

(1) Subject to the availability of appropriated funds, the department shall pay fifty percent of the cost of implementing the hazard-reduction program, except as provided in subsection (2) of this section.

(2) In the event department funds described in subsection (1) of this section are not available for all or a portion of a forest landowner's property, the landowner may request application of the hazard-reduction program to the owner's lands, provided the landowner funds one hundred percent of the cost of implementation of the department's recommended actions on his or her property.

(3) No cost-sharing funds may be made available for sites where the department determines that the hazardous condition results from a violation of then-prevailing standards as established by statute or rule.

Sec. 232. RCW 76.14.080 and 1988 c 128 s 43 are each amended to read as follows:

The department shall develop fire protection projects within the high hazard forest area and shall determine the boundaries thereof in accordance with the lands benefited thereby and shall assess one-sixth of the cost of such projects equally upon all forest lands within the project on an acreage basis. Such assessment shall not, however, exceed twenty-five cents per acre annually nor more than one dollar and fifty cents per acre in the aggregate and shall constitute a lien upon any forest products harvested therefrom. The landowner may by written notice to the department elect to pay his or her assessment on a deferred basis at a rate of ten cents per thousand board feet and/or one cent per Christmas tree when these products are harvested from the lands for commercial use until the assessment plus two percent interest from the date of completion of each project has been paid for each acre. Payments under the deferred plan shall be credited by forty acre tracts and shall be first applied to payment of the assessment against the forty acre tract from which the funds were derived and secondly to other forty acre tracts held and designated by the payor. In the event total ownership is less than forty acres, then payment shall be applied on an undivided basis to the entire areas as to which the assessment remains unpaid. The landowner who elects to pay on deferred basis may pay any unpaid assessment and interest at any time.

Sec. 233. RCW 76.14.090 and 1988 c 128 s 44 are each amended to read as follows:

Notice of each project, the estimated assessment per acre, and a description of the boundaries thereof shall be given by publication in a local newspaper of general circulation thirty days in advance of commencing work. Any person owning land within the project may within ten days after publication of notice demand a hearing before the department in Olympia and present any reasons why he or she feels the assessment should not be made upon his or her land. Thereafter, the department may change the boundaries of said project to eliminate land from the project which it determines in its discretion will not be benefited by the project.

Sec. 234. RCW 76.14.100 and 1988 c 128 s 45 are each amended to read as follows:

Except when the owner has notified the department in writing that he or she will make payment on the deferred plan, the assessment shall be collected by the department reporting the same to the county assessor of the county in which the

property is situated upon completion of the work in that project and the assessor shall annually extend the amounts upon the tax rolls covering the property, and the amounts shall be collected in the same manner, by the same procedure, and with the same penalties attached as the next general state and county taxes on the same property are collected. Errors in assessments may be corrected at any time by the department by certifying them to the treasurer of the county in which the land involved is situated. Upon the collection of such assessments, the county treasurer shall transmit them to the department. Payment on the deferred plan shall be made directly to the department. Such payment must be made by January 31st for any timber or Christmas trees harvested during the previous calendar year and must be accompanied by a statement of the amount of timber or number of Christmas trees harvested and the legal description of the property from which they were harvested. Whenever an owner paying on the deferred plan desires to pay any unpaid balance or portion thereof, he or she may make direct payment to the department.

Sec. 235. RCW 76.14.110 and 1988 c 128 s 46 are each amended to read as follows:

Where the department finds that a portion of the work in any project, except road building, has been done by private expenditures for fire protection purposes only and that the work was not required by other forestry laws having general application, then the department shall appraise the work on the basis of what it would have cost the state and shall credit the amount of the appraisal toward payment of any sums assessed against lands contained in the project and owned by the person or his or her predecessors in title making the expenditure. Such appraisal shall be added to the cost of the project for purposes of determining the general assessment.

Sec. 236. RCW 76.42.030 and 1994 c 163 s 3 are each amended to read as follows:

The department of natural resources may by contract, license, or permit, or other arrangements, cause such wood debris to be removed by private contractors, department of natural resources employees, or by other public bodies. Nothing contained in this chapter shall prohibit any individual from using any nonmerchtable wood debris for his or her own personal use.

Sec. 237. RCW 76.52.020 and 1979 c 100 s 2 are each amended to read as follows:

The department of natural resources may, by agreement, make available to forest landowners, equipment, materials, and personnel for the purpose of more intensively managing or protecting the land when the department determines that such services are not otherwise available at a cost which would encourage the landowner to so avail himself or herself, and that the use of department equipment, materials, or personnel will not jeopardize the management of state lands or other programs of the department. The department shall enter into a contractual agreement with the landowner for services rendered and shall recover the costs thereof.

Sec. 238. RCW 77.04.060 and 1993 sp.s. c 2 s 63 are each amended to read as follows:

The commission shall hold at least one regular meeting during the first two months of each calendar quarter, and special meetings when called by the chair

and by five members. Five members constitute a quorum for the transaction of business.

The commission at a meeting in each odd-numbered year shall elect one of its members as ((~~chairman~~)) chair and another member as vice ((~~chairman~~)) chair, each of whom shall serve for a term of two years or until a successor is elected and qualified.

Members of the commission shall be compensated in accordance with RCW 43.03.250. In addition, members are allowed their travel expenses incurred while absent from their usual places of residence in accordance with RCW 43.03.050 and 43.03.060.

Sec. 239. RCW 77.12.370 and 1987 c 506 s 43 are each amended to read as follows:

Prior to the forwarding of a request needing endorsement under RCW 77.12.360, the director shall present the request to the legislative authority of the county in which the lands are located for its approval. The legislative authority, before acting on the request, may call a public hearing. The hearing shall take place within thirty days after presentation of the request to the legislative authority.

The director shall publish notice of the public hearing called by the legislative authority in a newspaper of general circulation within the county at least once a week for two successive weeks prior to the hearing. The notice shall contain a copy of the request and the time and place of the hearing.

The ((~~chairman~~)) chair of the county legislative authority shall preside at the public hearing. The proceedings shall be informal and all persons shall have a reasonable opportunity to be heard.

Within ten days after the hearing, the county legislative authority shall endorse its decision on the request for withdrawal. The decision is final and not subject to appeal.

Sec. 240. RCW 77.12.620 and 2000 c 107 s 226 are each amended to read as follows:

The department is authorized to require hunters and ((~~fishermen~~)) fishers occupying a motor vehicle approaching or entering a check station to stop and produce for inspection: (1) Any wildlife, fish, shellfish, or seaweed in their possession; (2) licenses, permits, tags, stamps, or catch record cards, required under Title 77 RCW, or rules adopted thereunder. For these purposes, the department is authorized to operate check stations which shall be plainly marked by signs, operated by at least one uniformed fish and wildlife officer, and operated in a safe manner.

Sec. 241. RCW 77.12.760 and 1993 sp.s. c 2 s 78 are each amended to read as follows:

Steelhead trout shall be managed solely as a recreational fishery for non-Indian ((~~fishermen~~)) fishers under the rule-setting authority of the fish and wildlife commission.

Commercial non-Indian steelhead fisheries are not authorized.

Sec. 242. RCW 77.15.570 and 2000 c 107 s 251 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, it is unlawful for a person who is not a treaty Indian ((~~fisherman~~)) fisher to participate in the taking

of fish or shellfish in a treaty Indian fishery, or to be on board a vessel, or associated equipment, operating in a treaty Indian fishery. A violation of this subsection is a gross misdemeanor.

(2) A person who violates subsection (1) of this section with the intent of acting for commercial purposes, including any sale of catch, control of catch, profit from catch, or payment for fishing assistance, is guilty of a class C felony. Upon conviction, the department shall order revocation of any license and a one-year suspension of all commercial fishing privileges requiring a license under chapter 77.65 or 77.70 RCW.

(3)(a) The spouse, forebears, siblings, children, and grandchildren of a treaty Indian (~~(fisherman)~~) fisher may assist the (~~(fisherman)~~) fisher in exercising treaty Indian fishing rights when the treaty Indian (~~(fisherman)~~) fisher is present at the fishing site.

(b) Other treaty Indian (~~(fishermen)~~) fishers with off-reservation treaty fishing rights in the same usual and accustomed places, whether or not the (~~(fishermen)~~) fishers are members of the same tribe or another treaty tribe, may assist a treaty Indian (~~(fisherman)~~) fisher in exercising treaty Indian fishing rights when the treaty Indian (~~(fisherman)~~) fisher is present at the fishing site.

(c) Biologists approved by the department may be on board a vessel operating in a treaty Indian fishery.

(4) For the purposes of this section:

(a) "Treaty Indian (~~(fisherman)~~) fisher" means a person who may exercise treaty Indian fishing rights 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 post-trial orders of those courts;

(b) "Treaty Indian fishery" means a fishery open to only treaty Indian (~~(fishermen)~~) fishers by tribal or federal regulation;

(c) "To participate" and its derivatives mean an effort to operate a vessel or fishing equipment, provide immediate supervision in the operation of a vessel or fishing equipment, or otherwise assist in the fishing operation, to claim possession of a share of the catch, or to represent that the catch was lawfully taken in an Indian fishery.

(5) A violation of this section constitutes illegal fishing and is subject to the suspensions provided for commercial fishing violations.

Sec. 243. RCW 77.32.155 and 2009 c 269 s 1 are each amended to read as follows:

(1)(a) When purchasing any hunting license, persons under the age of eighteen shall present certification of completion of a course of instruction of at least ten hours in the safe handling of firearms, safety, conservation, and (~~(sportsmanship)~~) sporting/hunting behavior. All persons purchasing any hunting license for the first time, if born after January 1, 1972, shall present such certification.

(b)(i) The director may establish a program for training persons in the safe handling of firearms, conservation, and (~~(sportsmanship)~~) sporting/hunting behavior and shall prescribe the type of instruction and the qualifications of the instructors. The director shall, as part of establishing the training program, exempt members of the United States military from the firearms skills portion of any instruction course completed over the internet.

(ii) The director may cooperate with the national rifle association, organized ~~((sportsmen's))~~ sports/outdoor enthusiasts' groups, or other public or private organizations when establishing the training program.

(c) Upon the successful completion of a course established under this section, the trainee shall receive a hunter education certificate signed by an authorized instructor. The certificate is evidence of compliance with this section.

(d) The director may accept certificates from other states that persons have successfully completed firearm safety, hunter education, or similar courses as evidence of compliance with this section.

(2)(a) The director may authorize a once in a lifetime, one license year deferral of hunter education training for individuals who are accompanied by a nondeferred Washington-licensed hunter who has held a Washington hunting license for the prior three years and is over eighteen years of age. The commission shall adopt rules for the administration of this subsection to avoid potential fraud and abuse.

(b) The director is authorized to collect an application fee, not to exceed twenty dollars, for obtaining the once in a lifetime, one license year deferral of hunter education training from the department. This fee must be deposited into the fish and wildlife enforcement reward account and must be used exclusively to administer the deferral program created in this subsection.

(c) For the purposes of this subsection, "accompanied" means to go along with another person while staying within a range of the other person that permits continual unaided visual and auditory communication.

(3) To encourage the participation of an adequate number of instructors for the training program, the commission shall develop nonmonetary incentives available to individuals who commit to serving as an instructor. The incentives may include additional hunting opportunities for instructors.

Sec. 244. RCW 77.65.280 and 2011 c 339 s 25 are each amended to read as follows:

A wholesale fish dealer's license is required for:

(1) A business in the state to engage in the commercial processing of food fish or shellfish, including custom canning or processing of personal use food fish or shellfish.

(2) A business in the state to engage in the wholesale selling, buying, or brokering of food fish or shellfish. A wholesale fish dealer's license is not required of those businesses which buy exclusively from Washington licensed wholesale dealers and sell solely at retail.

(3) ~~((Fishermen))~~ Fishers who land and sell their catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state, unless the fisher has a direct retail endorsement.

(4) A business to engage in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other by-products from food fish or shellfish.

(5) A business employing a fish buyer as defined under RCW 77.65.340.

The annual license fee for a wholesale dealer is two hundred fifty dollars. The application fee is one hundred five dollars. A wholesale fish dealer's license is not required for persons engaged in the processing, wholesale selling, buying, or brokering of private sector cultured aquatic products as defined in RCW

15.85.020. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, the exemption from licensing requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

Sec. 245. RCW 77.65.340 and 2011 c 339 s 26 are each amended to read as follows:

(1) A fish buyer's license is required of and shall be carried by each individual engaged by a wholesale fish dealer to purchase food fish or shellfish from a licensed commercial ((fisherman)) fisher. A fish buyer may represent only one wholesale fish dealer.

(2) The annual fee for a fish buyer's license is ninety-five dollars. The application fee is one hundred five dollars.

Sec. 246. RCW 77.95.030 and 1995 1st sp.s. c 2 s 35 are each amended to read as follows:

(1) The commission shall develop a detailed salmon enhancement plan with proposed enhancement projects. The plan and the regional policy statements shall be submitted to the secretary of the senate and chief clerk of the house of representatives for legislative distribution by June 30, 1986. The enhancement plan and regional policy statements shall be provided by June 30, 1986, to the natural resources committees of the house of representatives and the senate. The commission shall provide a maximum opportunity for the public to participate in the development of the salmon enhancement plan. To insure full participation by all interested parties, the commission shall solicit and consider enhancement project proposals from Indian tribes, sports ((fishermen)) fishers, commercial ((fishermen)) fishers, private aquaculturists, and other interested groups or individuals for potential inclusion in the salmon enhancement plan. Joint or cooperative enhancement projects shall be considered for funding.

(2) The following criteria shall be used by the commission in formulating the project proposals:

- (a) Compatibility with the long-term policy statement;
- (b) Benefit/cost analysis;
- (c) Needs of all fishing interests;
- (d) Compatibility with regional plans, including harvest management plans;
- (e) Likely increase in resource productivity;
- (f) Direct applicability of any research;
- (g) Salmon advisory council recommendations;
- (h) Compatibility with federal court orders;
- (i) Coordination with the salmon and steelhead advisory commission program;
- (j) Economic impact to the state;
- (k) Technical feasibility; and
- (l) Preservation of native salmon runs.

(3) The commission shall not approve projects that serve as replacement funding for projects that exist prior to May 21, 1985, unless no other sources of funds are available.

(4) The commission shall prioritize various projects and establish a recommended implementation time schedule.

Sec. 247. RCW 78.04.030 and Code 1881 s 2446 are each amended to read as follows:

In incorporations already formed, or which may hereafter be formed under this chapter, where the amount of the capital stock of such corporation consists of the aggregate valuation of the whole number of feet, shares, or interest in any mining claim in this state, for the working and development of which such corporation shall be or have been formed, no actual subscription to the capital stock of such corporation shall be necessary; but each owner in said mining claim shall be deemed to have subscribed such an amount to the capital stock of such corporation as under its bylaws will represent the value of so much of his or her interest in said mining claim, the legal title to which he or she may by deed, deed of trust, or other instrument vest, or have vested in such corporation for mining purposes; such subscription to be deemed to have been made on the execution and delivery to such corporation of such deed, deed of trust, or other instrument; nor shall the validity of any assessment levied by the board of trustees of such corporation be affected by the reason of the fact that the full amount of the capital stock of such corporation, as mentioned in its certificate of incorporation, shall not have been subscribed as provided in this section: PROVIDED, That the greater portion of said amount of capital stock shall have been so subscribed: AND, PROVIDED FURTHER, That this section shall not be so construed as to prohibit the stockholders of any corporation formed, or which may be formed, for mining purposes as provided in this section, from regulating the mode of making subscriptions to its capital stock and calling in the same by bylaws or express contract.

Sec. 248. RCW 78.08.080 and 1983 c 3 s 198 are each amended to read as follows:

If at any time the locator of any quartz or lode mining claim heretofore or hereafter located, or his or her assigns, shall learn that his or her original certificate was defective or that the requirements of the law had not been complied with before filing, or shall be desirous of changing his or her surface boundaries or of taking in any additional ground which is subject to location, or in any case the original certificate was made prior to the passage of this law, and he or she shall be desirous of securing the benefits of RCW 78.08.050 through 78.08.115, such locator or his or her assigns may file an amended certificate of location, subject to the provisions of RCW 78.08.050 through 78.08.115, regarding the making of new locations.

Sec. 249. RCW 78.08.100 and 1901 c 137 s 1 are each amended to read as follows:

The discoverer of placers or other forms of deposits subject to location and appropriation under mining laws applicable to placers shall locate his or her claim in the following manner:

First. He or she must immediately post in a conspicuous place at the point of discovery thereon, a notice or certificate of location thereof, containing (1) the name of the claim; (2) the name of the locator or locators; (3) the date of discovery and posting of the notice hereinbefore provided for, which shall be considered as the date of the location; (4) a description of the claim by reference to legal subdivisions of sections, if the location is made in conformity with the public surveys, otherwise, a description with reference to some natural object or

permanent monuments as will identify the claim; and where such claim is located by legal subdivisions of the public surveys, such location shall, notwithstanding that fact, be marked by the locator upon the ground the same as other locations.

Second. Within thirty days from the date of such discovery, he or she must record such notice or certificate of location in the office of the auditor of the county in which such discovery is made, and so distinctly mark his or her location on the ground that its boundaries may be readily traced.

Third. Within sixty days from the date of discovery, the discoverer shall perform labor upon such location or claim in developing the same to an amount which shall be equivalent in the aggregate to at least ten dollars worth of such labor for each twenty acres, or fractional part thereof, contained in such location or claim: PROVIDED, HOWEVER, That nothing in this subdivision shall be held to apply to lands located under the laws of the United States as placer claims for the purpose of the development of petroleum and natural gas and other natural oil products.

Fourth. Such locator shall, upon the performance of such labor, file with the auditor of the county an affidavit showing such performance and generally the nature and kind of work so done.

Sec. 250. RCW 78.12.070 and 1890 p 123 s 9 are each amended to read as follows:

Nothing contained in this chapter shall be so construed as to prevent recovery being had in a suit for damages for injuries sustained by the party so injured, or his or her heirs or administrator or administratrix, or anyone else now competent to sue in an action of such character.

Sec. 251. RCW 78.16.030 and 1907 c 38 s 3 are each amended to read as follows:

Upon payment of the full purchase price, in cases where an option to purchase is given, a conveyance shall be executed to the purchaser by the (~~(chairman)~~) chair of the board of county commissioners. Such conveyance shall refer to the order of the board authorizing such leasing with the option to purchase, and shall be deemed to convey all the estate, right, title and interest of the county in and to the property sold; and such conveyance, when executed, shall be conclusive evidence of the regularity and validity of all proceedings hereunder.

Sec. 252. RCW 78.16.040 and 1945 c 93 s 2 are each amended to read as follows:

The lessee under any such petroleum lease shall have the option of surrendering any of the lands included in said lease at any time, and shall thereby be relieved of all liability with respect to such lands except the payment of accrued royalties as provided in said lease. Upon such surrender, the lessee shall have the right for a period of one hundred twenty days following the date of such surrender, to remove all improvements placed by him or her on the lands which have been surrendered.

Sec. 253. RCW 78.52.550 and 1951 c 146 s 58 are each amended to read as follows:

Every person who shall violate or knowingly aid and abet the violation of this chapter or any valid orders, rules, and regulations issued thereunder, or who

fails to perform any act which is herein made his or her duty to perform, shall be guilty of a gross misdemeanor.

Sec. 254. RCW 78.60.110 and 1974 ex.s. c 43 s 11 are each amended to read as follows:

(1) The department may authorize the operator to suspend drilling operations, shut-in a completed well, or remove equipment from a well for the period stated in the department's written authorization. The period of suspension may be extended by the department upon the operator showing good cause for the granting of such extension.

(2) If drilling operations are not resumed by the operator, or the well is not put into production, upon expiration of the suspension or shut-in permit, an intention to unlawfully abandon shall be presumed.

(3) A well shall also be deemed unlawfully abandoned if, without written approval from the department, drilling equipment is removed.

(4) An unlawful abandonment under this chapter shall be entered in the department records and written notice thereof shall be mailed by registered mail both to such operator at his or her last known address as disclosed by records of the department and to the operator's surety. The department may thereafter proceed against the operator and his or her surety.

Sec. 255. RCW 78.60.170 and 1974 ex.s. c 43 s 17 are each amended to read as follows:

Each owner or operator of a well shall designate a person who resides in this state as his or her agent upon whom may be served all legal processes, orders, notices, and directives of the department or any court.

Sec. 256. RCW 78.60.250 and 1974 ex.s. c 43 s 25 are each amended to read as follows:

Whenever it appears with probable cause to the department that:

(1) A violation of any provision of this chapter, regulation adopted pursuant thereto, or condition of a permit issued pursuant to this chapter has occurred or is about to occur, or

(2) That a modification of a permit is deemed necessary to carry out the purpose of this chapter,

the department shall issue a written order in person to the operator or his or her employees or agents, or by certified mail, concerning the drilling, testing, or other operation conducted with respect to any well drilled, in the process of being drilled, or in the process of being abandoned or in the process of reclamation or restoration, and the operator, owner, or designated agent of either shall comply with the terms of the order and may appeal from the order in the manner provided for in RCW ((79.76.280)) 78.60.280. When the department deems necessary, the order may include a shutdown order to remain in effect until the deficiency is corrected.

Sec. 257. RCW 79.02.150 and 1927 c 255 s 19 are each amended to read as follows:

So long as any grant of lands by the United States to the state of Washington, for any purpose, or as lieu or indemnity lands therefor, remains incomplete, the commissioner of public lands shall, from time to time, cause the records in his or her office and in the United States land offices, to be examined for the purpose of ascertaining what of the unappropriated lands of the United

States are open to selection, and whether any thereof may be of sufficient value and so situated as to warrant their selection as state lands, and in that case may cause the same to be inspected and appraised by one or more state land inspectors, and a full report made thereon by the smallest legal subdivisions of forty acres each, classifying such lands into grazing, farming, and timbered lands, and estimating the value of each tract inspected and the quantity and value of all valuable material thereon, and in the case of timbered lands the amount and value of the standing timber thereon, and the estimated value of such lands after the timber is removed, which report shall be made as amply and expeditiously as possible on blanks to be furnished by the commissioner of public lands for that purpose, under the oath of the inspector to the effect that he or she has personally examined the tracts mentioned in each forty acres thereof, and that said report and appraisal is made from such personal examination, and is, to the best of affiant's knowledge and belief, true and correct, and that the lands are not occupied by any bona fide settler.

The commissioner of public lands shall select such unappropriated lands as he or she shall deem advisable, and do all things necessary under the laws of the United States to vest title thereto in the state, and shall assign lands of equal value, as near as may be, to the various uncompleted grants.

Sec. 258. RCW 79.14.060 and 1955 c 131 s 6 are each amended to read as follows:

Every lessee shall have the option of surrendering his or her lease as to all or any portion or portions of the land covered thereby at any time and shall be relieved of all liability thereunder with respect to the land so surrendered except for monetary payments theretofore accrued and except for physical damage to the premises embraced by his or her lease which have been occasioned by his or her operations.

Sec. 259. RCW 79.22.120 and 1991 c 10 s 1 are each amended to read as follows:

If the board of natural resources determines that any forest lands deeded to the board or the state pursuant to this chapter, which are leased to any county for uses which have as one permitted use a sanitary landfill and/or transfer station, are no longer appropriate for management by the board, the board may reconvey all of the lands included within any such lease to that county. Reconveyance shall be by quitclaim deed executed by the (~~chairman~~) chair of the board. Upon execution of such deed, full legal and equitable title to such lands shall be vested in that county, and any leases on such lands shall terminate. A county that receives any such reconveyed lands shall indemnify and hold the state of Washington harmless from any liability or expense arising out of the reconveyed lands.

Sec. 260. RCW 79.24.030 and 1988 c 128 s 62 are each amended to read as follows:

The board of natural resources and the department of natural resources may employ such cruisers, (~~draughtsmen~~) drafters, engineers, architects, or other assistants as may be necessary for the best interests of the state in carrying out the provisions of RCW 79.24.010 through 79.24.085, and all expenses incurred by the board and department, and all claims against the capitol building construction account shall be audited by the department and presented in

vouchers to the state treasurer, who shall draw a warrant therefor against the capitol building construction account as herein provided or out of any appropriation made for such purpose.

Sec. 261. RCW 79.24.150 and 1947 c 186 s 6 are each amended to read as follows:

Bonds authorized by RCW 79.24.100 through 79.24.160 shall be accepted by the state, counties, cities, towns, school districts, and other political subdivisions as security for the deposit of any of their funds in any banking institution. Any officer of this state, or any county, city, town, school district, or other political subdivision may invest surplus funds, which he or she or it is authorized to invest in securities, and where such authorization is not limited or restricted as to the class of securities in which he or she or it may invest, in bonds issued under RCW 79.24.100 through 79.24.160.

Sec. 262. RCW 79.24.660 and 1969 ex.s. c 272 s 6 are each amended to read as follows:

Bonds authorized by RCW 79.24.650 through 79.24.668 shall be accepted by the state, counties, cities, towns, school districts, and other political subdivisions as security for the deposit of any of their funds in any banking institution. Any officer of this state, or any county, city, town, school district, or other political subdivision may invest surplus funds, which he or she or it is authorized to invest in securities, and where such authorization is not limited or restricted as to the class of securities in which he or she or it may invest, in bonds issued under RCW 79.24.650 through 79.24.668.

Sec. 263. RCW 79.44.050 and 2002 c 260 s 3 are each amended to read as follows:

Upon the approval and confirmation of the assessment roll ordered by the proper authorities of any assessing district, the treasurer of such assessing district shall certify and forward to the chief administrative officer of the agency of state government occupying, using, or having jurisdiction over the lands, a statement of all the lots or parcels of land held or owned by the state and charged on such assessment roll, separately describing each such lot or parcel of the state's land, with the amount of the local assessment charged against it, or the proportionate amount assessed against the fee simple interest of the state, in case the land has been leased. The chief administrative officer upon receipt of such statement shall cause a proper record to be made in his or her office of the cost of such assessment upon the lands occupied, used, or under the jurisdiction of his or her agency.

No penalty shall be provided or enforced against the state, and the interest upon such assessments shall be computed and paid at the rate paid by other property situated in the same assessing district.

Sec. 264. RCW 79.44.100 and 1963 c 20 s 10 are each amended to read as follows:

Whenever any such tide, state, school, granted, or other lands situated within the limits of any assessing district, has been included within any local improvement district by such assessing district, and the contract, leasehold, or other interest of any individual has been sold to satisfy the lien of such assessment for local improvement, the purchaser of such interest at such sale shall be entitled to receive from the state of Washington, on demand, an

assignment of the contract, leasehold, or other interest purchased by him or her, and shall assume, subject to the terms and conditions of the contract or lease, the payment to the state of the amount of the balance which his or her predecessor in interest was obligated to pay.

Sec. 265. RCW 79A.05.085 and 1974 ex.s. c 151 s 1 are each amended to read as follows:

The commission shall determine the fair market value for television station leases based upon independent appraisals and existing leases for television stations shall be extended at said fair market rental for at least one period of not more than twenty years: PROVIDED, That the rates in said leases shall be renegotiated at five year intervals: PROVIDED FURTHER, That said stations shall permit the attachment of antennae of publicly operated broadcast and microwave stations where electronically practical to combine the towers: PROVIDED FURTHER, That notwithstanding any term to the contrary in any lease, this section shall not preclude the commission from prescribing new and reasonable lease terms relating to the modification, placement, or design of facilities operated by or for a station, and any extension of a lease granted under this section shall be subject to this proviso: PROVIDED FURTHER, That notwithstanding any other provision of law the director in his or her discretion may waive any requirement that any environmental impact statement or environmental assessment be submitted as to any lease negotiated and signed between January 1, 1974, and December 31, 1974.

Sec. 266. RCW 79A.05.105 and 1965 c 8 s 43.51.100 are each amended to read as follows:

Inasmuch as the value of land with standing timber is increasing and will continue to increase from year to year and no loss will be caused to the common school fund or other fund into which the proceeds of the sale of any land held by the state would be paid by postponing the sale thereof, the commissioner of public lands may, upon his or her own motion, and shall, when directed so to do by the state parks and recreation commission, withdraw from sale any land held by the state abutting on any public highway and certify to the commission that such land is withheld from sale pursuant to the terms of this section.

Such lands shall not be sold until directed by the legislature, and shall in the meantime be under the care, charge, control, and supervision of the commission.

Sec. 267. RCW 79A.05.700 and 1969 ex.s. c 162 s 1 are each amended to read as follows:

The Green River Gorge, between the town of Kanasket and the Kummer bridge in King county, is a twelve mile spectacularly winding gorge with steep to overhanging rock walls reaching heights of from one hundred fifty to three hundred feet. The beauty and natural features of the gorge are generally confined within the canyon rim. This twelve mile gorge area contains many examples of unique biological and geological features for educational and recreational interpretation, almost two miles of Eocene sediment rocks and fossils are exposed revealing one of the most complete stratigraphic sections to be found in the region. The area, a unique recreational attraction with more than one million seven hundred thousand people living within an hour's driving time, is presently used by hikers, geologists, ((fishermen)) fishers, kayakers and canoeists, picnickers and swimmers, and those seeking the solitude offered by

this unique area. Abutting and adjacent landowners generally have kept the gorge lands in their natural state; however, economic and urbanization pressures for development are rapidly increasing. Local and state outdoor recreation plans show a regional need for resources and facilities which could be developed in this area. A twelve-mile strip incorporating the visual basins of the Green river from the Kummer bridge to Palmer needs to be acquired and developed as a conservation area to preserve this unique area for the recreational needs of the region.

Sec. 268. RCW 80.01.020 and 1961 c 14 s 80.01.020 are each amended to read as follows:

Each commissioner shall, before entering upon the duties of his or her office, take and subscribe the constitutional oath of office, and furnish bond to the state in the sum of twenty thousand dollars conditioned for the faithful discharge of the duties of his or her office and for the proper accounting for all funds that may come into his or her possession by virtue of his or her office. Each commissioner shall be a qualified elector of this state and no person in the employ of or holding any official relation to any corporation or person, which corporation or person is subject in whole or in part to regulation by the commission, and no person owning stocks or bonds of any such corporation or who is in any manner pecuniarily interested therein shall be appointed or hold the office of commissioner or be appointed or employed by the commission: PROVIDED, That if any such person shall become the owner of such stocks or bonds or become pecuniarily interested in such corporation otherwise than voluntarily, he or she shall within a reasonable time divest himself or herself of such ownership or interest, and failing to do so his or her office or employment shall become vacant.

Sec. 269. RCW 80.01.100 and 1961 c 14 s 80.01.100 are each amended to read as follows:

It shall be the duty of the attorney general to represent and appear for the people of the state of Washington and the commission in all actions and proceedings involving any question under this title or Title 81 RCW, or under or in reference to any act or order of the commission; and it shall be the duty of the attorney general generally to see that all laws affecting any of the persons or corporations herein enumerated are complied with, and that all laws, the enforcement of which devolves upon the commission, are enforced, and to that end he or she is authorized to institute, prosecute, and defend all necessary actions and proceedings.

Sec. 270. RCW 80.04.020 and 1961 c 14 s 80.04.020 are each amended to read as follows:

Each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.

The superior court of the county in which any such inquiry, investigation, hearing, or proceeding may be had, shall have power to compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony as required by such subpoena. The commission or the commissioner before which the testimony is to be given or produced, in case of the refusal of

any witness to attend or testify or produce any papers required by the subpoena, shall report to the superior court in and for the county in which the proceeding is pending by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, and that the witness has been summoned in the manner prescribed in this chapter, and that the fees and mileage of the witness have been paid or tendered to the witness for his or her attendance and testimony, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission, in the cause or proceedings named in the notice and subpoena, or has refused to answer questions propounded to him or her in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify before the commission. The court, upon the petition of the commission, shall enter an order directing the witness to appear before said court at a time and place to be fixed by the court in such order, and then and there show cause why he or she has not responded to said subpoena. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission, the court shall thereupon enter an order that said witness appear before the commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failing to obey said order, said witness shall be dealt with as for contempt of court.

Sec. 271. RCW 80.04.040 and 1961 c 14 s 80.04.040 are each amended to read as follows:

Each witness who shall appear under subpoena shall receive for his or her attendance four dollars per day and ten cents per mile traveled by the nearest practicable route in going to and returning from the place of hearing. No witness shall be entitled to fees or mileage from the state when summoned at the instance of the public service companies affected.

Sec. 272. RCW 80.04.050 and 1961 c 14 s 80.04.050 are each amended to read as follows:

The claim by any witness that any testimony sought to be elicited may tend to incriminate him or her shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding, excepting in a prosecution for perjury. The commissioner shall have power to compel the attendance of witnesses at any place within the state.

Sec. 273. RCW 80.04.070 and 1961 c 14 s 80.04.070 are each amended to read as follows:

The commission and each commissioner, or any person employed by the commission, shall have the right, at any and all times, to inspect the accounts, books, papers, and documents of any public service company, and the commission, or any commissioner, may examine under oath any officer, agent, or employee of such public service company in relation thereto, and with reference to the affairs of such company: PROVIDED, That any person other than a commissioner who shall make any such demand shall produce his or her authority from the commission to make such inspection.

Sec. 274. RCW 80.04.120 and 1961 c 14 s 80.04.120 are each amended to read as follows:

At the time fixed for the hearing mentioned in RCW 80.04.110, the complainant and the person or corporation complained of shall be entitled to be heard and introduce such evidence as he or she or it may desire. The commission shall issue process to enforce the attendance of all necessary witnesses. At the conclusion of such hearing, the commission shall make and render findings concerning the subject matter and facts inquired into and enter its order based thereon. A copy of such order, certified under the seal of the commission, shall be served upon the person or corporation complained of, or his or her or its attorney, which order shall, of its own force, take effect and become operative twenty days after the service thereof, except as otherwise provided. Where an order cannot, in the judgment of the commission, be complied with within twenty days, the commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record of all proceedings had before the commission, or any member thereof, on any formal hearing had, and all testimony shall be taken down by a stenographer appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review any order of the commission, a transcript of such testimony, together with all exhibits introduced, and of the record and proceedings in the cause, shall constitute the record of the commission.

Sec. 275. RCW 80.04.170 and 1961 c 14 s 80.04.170 are each amended to read as follows:

Any complainant or any public service company affected by any findings or order of the commission, and deeming such findings or order to be contrary to law, may, within thirty days after the service of the findings or order upon him or her or it, apply to the superior court of Thurston county for a writ of review, for the purpose of having the reasonableness and lawfulness of such findings or order inquired into and determined. Such writ shall be made returnable not later than thirty days from and after the date of the issuance thereof, unless upon notice to all parties affected further time be allowed by the court, and shall direct the commission to certify its record in the case to the court. Such cause shall be heard by the court without the intervention of a jury on the evidence and exhibits introduced before the commission and certified to by it. Upon such hearing, the superior court shall enter judgment either affirming or setting aside or remanding for further action the findings or order of the commission under review. The reasonable cost of preparing the transcript of testimony taken before the commission shall be assessable as part of the statutory court costs, and the amount thereof, if collected by the commission, shall be deposited in the public service revolving fund. In case such findings or order be set aside, or reversed and remanded, the court shall make specific findings based upon evidence in the record indicating clearly all respects in which the commission's findings or order are erroneous.

Sec. 276. RCW 80.04.280 and 1961 c 14 s 80.04.280 are each amended to read as follows:

No public service company shall permit any employee to sell, offer for sale, or solicit the purchase of any security of any other person or corporation during such hours as such employee is engaged to perform any duty of such public

service company; nor shall any public service company by any means or device require any employee to purchase or contract to purchase any of its securities or those of any other person or corporation; nor shall any public service company require any employee to permit the deduction from his or her wages or salary of any sum as a payment or to be applied as a payment of any purchase or contract to purchase any security of such public service company or of any other person or corporation.

Sec. 277. RCW 80.04.460 and 1961 c 14 s 80.04.460 are each amended to read as follows:

Every public service company shall give immediate notice to the commission of every accident resulting in death or injury to any person occurring in its plant or system, in such manner as the commission may prescribe. Such notice shall not be admitted as evidence or used for any purpose against the company giving it in any action for damages growing out of any matter mentioned in the notice.

The commission may investigate any accident resulting in death or injury to any person occurring in connection with the plant or system of any public service company. Notice of the investigation shall be given in all cases for a sufficient length of time to enable the company affected to participate in the hearing and may be given orally or in writing, in such manner as the commission may prescribe.

Such witnesses may be examined as the commission deems necessary and proper to thoroughly ascertain the cause of the accident and fix the responsibility therefor. The examination and investigation may be conducted by an inspector or deputy inspector, and ~~((they))~~ he or she may administer oaths, issue subpoenas, and compel the attendance of witnesses, and when the examination is conducted by an inspector or deputy inspector, he or she shall make a full and complete report thereof to the commission.

Sec. 278. RCW 80.04.470 and 1961 c 173 s 1 are each amended to read as follows:

It shall be the duty of the commission to enforce the provisions of this title and all other acts of this state affecting public service companies, the enforcement of which is not specifically vested in some other officer or tribunal. Any employee of the commission may, without a warrant, arrest any person found violating in his or her presence any provision of this title, or any rule or regulation adopted by the commission: PROVIDED, That each such employee shall be first specifically designated in writing by the commission or a member thereof as having been found to be a fit and proper person to exercise such authority. Upon being so designated, such person shall be a peace officer and a police officer for the purposes herein mentioned.

Sec. 279. RCW 80.04.510 and 1961 c 14 s 80.04.510 are each amended to read as follows:

It shall be the duty of the attorney general to represent and appear for the people of the state of Washington and the commission in all actions and proceedings involving any question under this title, or under or in reference to any act or order of the commission; and it shall be the duty of the attorney general generally to see that all laws affecting any of the persons or corporations herein enumerated are complied with, and that all laws, the enforcement of

which devolves upon the commission, are enforced, and to that end he or she is authorized to institute, prosecute, and defend all necessary actions and proceedings.

Sec. 280. RCW 80.08.110 and 1994 c 251 s 3 are each amended to read as follows:

Every public service company which, directly or indirectly, issues or causes to be issued, any stock or stock certificate or other evidence of interest or ownership, or bond, note, or other evidence of indebtedness, in nonconformity with the provisions of this chapter, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes allowed by this chapter, shall be subject to a penalty of not more than one thousand dollars for each offense. Every violation shall be a separate and distinct offense and in case of a continuing violation every day's continuance thereof shall be deemed to be a separate and distinct offense.

The act, omission, or failure of any officer, agent, or employee of any public service company acting within the scope of his or her official duties or employment, shall in every case be deemed to be the act, omission, or failure of such public service company.

Sec. 281. RCW 80.32.100 and 1961 c 14 s 80.32.100 are each amended to read as follows:

In the event of the violation of any of the requirements of RCW 80.32.080 and 80.32.090 by any corporation availing itself of its provisions, an appropriate suit may be maintained in the name of the state upon the relation of the attorney general, or, if he or she shall refuse or neglect to act, upon the relation of any individual aggrieved by the violation, or violations, complained of, to compel such corporation to comply with the requirements of RCW 80.32.080 and 80.32.090. A violation of RCW 80.32.080 and 80.32.090 shall cause the forfeiture of the corporate franchise if the corporation refuses or neglects to comply with the orders with respect thereto made in the suit herein provided for.

Sec. 282. RCW 80.50.080 and 1977 ex.s. c 371 s 6 are each amended to read as follows:

After the council has received a site application, the attorney general shall appoint an assistant attorney general as a counsel for the environment. The counsel for the environment shall represent the public and its interest in protecting the quality of the environment. Costs incurred by the counsel for the environment in the performance of these duties shall be charged to the office of the attorney general, and shall not be a charge against the appropriation to the energy facility site evaluation council. He or she shall be accorded all the rights, privileges, and responsibilities of an attorney representing a party in a formal action. This section shall not be construed to prevent any person from being heard or represented by counsel in accordance with the other provisions of this chapter.

Sec. 283. RCW 80.50.150 and 1979 ex.s. c 254 s 2 and 1979 c 41 s 1 are each reenacted and amended to read as follows:

(1) The courts are authorized to grant such restraining orders, and such temporary and permanent injunctive relief as is necessary to secure compliance with this chapter and/or with a site certification agreement issued pursuant to this chapter or a national pollutant discharge elimination system (hereafter in this

section, NPDES) permit issued by the council pursuant to chapter 90.48 RCW or any permit issued pursuant to RCW 80.50.040(14). The court may assess civil penalties in an amount not less than one thousand dollars per day nor more than twenty-five thousand dollars per day for each day of construction or operation in material violation of this chapter, or in material violation of any site certification agreement issued pursuant to this chapter, or in violation of any NPDES permit issued by the council pursuant to chapter 90.48 RCW, or in violation of any permit issued pursuant to RCW 80.50.040(14). The court may charge the expenses of an enforcement action relating to a site certification agreement under this section, including, but not limited to, expenses incurred for legal services and expert testimony, against any person found to be in material violation of the provisions of such certification: PROVIDED, That the expenses of a person found not to be in material violation of the provisions of such certification, including, but not limited to, expenses incurred for legal services and expert testimony, may be charged against the person or persons bringing an enforcement action or other action under this section.

(2) Willful violation of any provision of this chapter shall be a gross misdemeanor.

(3) Willful or criminally negligent, as defined in RCW 9A.08.010(~~((1))~~) (1)(d), violation of any provision of an NPDES permit issued by the council pursuant to chapter 90.48 RCW or any permit issued by the council pursuant to RCW 80.50.040(14) or any emission standards promulgated by the council in order to implement the federal clean air act and the state implementation plan with respect to energy facilities under the jurisdiction provisions of this chapter shall be deemed a crime, and upon conviction thereof shall be punished by a fine of up to twenty-five thousand dollars per day and costs of prosecution. Any violation of this subsection shall be a gross misdemeanor.

(4) Any person knowingly making any false statement, representation, or certification in any document in any NPDES form, notice, or report required by an NPDES permit or in any form, notice, or report required for or by any permit issued pursuant to RCW 80.50.090(14) shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution.

(5) Every person who violates the provisions of certificates and permits issued or administered by the council shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to five thousand dollars a day for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation. Every 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 penalty provided in this section. The penalty provided in this section 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 same from the council describing such violation with reasonable particularity. The council may, upon written application therefor received within fifteen days after notice imposing any penalty is received by the person incurring the penalty, and when deemed in the best interest to carry out the purposes of this chapter, remit or mitigate any penalty provided in this section upon such terms as the council shall

deem proper, and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper. Any person incurring any penalty under this section may appeal the same to the council. Such appeals shall be filed within thirty days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the council. When an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the council setting forth the disposition of the application. Any penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, any penalty incurred hereunder shall become due and payable thirty days after receipt of notice setting forth the disposition of the application unless an appeal is filed from such disposition. Whenever an appeal of any penalty incurred hereunder is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. If the amount of any penalty is not paid to the council within thirty days after it becomes due and payable, the attorney general, upon the request of the council, 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 such violator may do business, to recover such penalty. In all such actions, the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in this chapter. All penalties recovered under this section shall be paid into the state treasury and credited to the general fund.

(6) Civil proceedings to enforce this chapter may be brought by the attorney general or the prosecuting attorney of any county affected by the violation on his or her own motion or at the request of the council. Criminal proceedings to enforce this chapter may be brought by the prosecuting attorney of any county affected by the violation on his or her own motion or at the request of the council.

(7) The remedies and penalties in this section, both civil and criminal, shall be cumulative and shall be in addition to any other penalties and remedies available at law, or in equity, to any person.

Sec. 284. RCW 81.04.020 and 1961 c 14 s 81.04.020 are each amended to read as follows:

Each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.

The superior court of the county in which any such inquiry, investigation, hearing, or proceeding may be had, shall have power to compel the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony as required by such subpoena. The commission or the commissioner before which the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by the subpoena, shall report to the superior court in and for the county in which the proceeding is pending by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said

papers, and that the witness has been summoned in the manner prescribed in this chapter, and that the fees and mileage of the witness have been paid or tendered to the witness for his or her attendance and testimony, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission, in the cause or proceedings named in the notice and subpoena, or has refused to answer questions propounded to him or her in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify before the commission. The court, upon the petition of the commission, shall enter an order directing the witness to appear before said court at a time and place to be fixed by the court in such order, and then and there show cause why he or she has not responded to said subpoena. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission, the court shall thereupon enter an order that said witness appear before the commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failing to obey said order, said witness shall be dealt with as for contempt of court.

Sec. 285. RCW 81.04.040 and 1961 c 14 s 81.04.040 are each amended to read as follows:

Each witness who appears under subpoena shall receive for his or her attendance four dollars per day and ten cents per mile traveled by the nearest practicable route in going to and returning from the place of hearing. No witness shall be entitled to fees or mileage from the state when summoned at the instance of the public service companies affected.

Sec. 286. RCW 81.04.050 and 1961 c 14 s 81.04.050 are each amended to read as follows:

The claim by any witness that any testimony sought to be elicited may tend to incriminate him or her shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding, excepting in a prosecution for perjury. The commissioner shall have power to compel the attendance of witnesses at any place within the state.

Sec. 287. RCW 81.04.070 and 1961 c 14 s 81.04.070 are each amended to read as follows:

The commission and each commissioner, or any person employed by the commission, shall have the right, at any and all times, to inspect the accounts, books, papers, and documents of any public service company, and the commission, or any commissioner, may examine under oath any officer, agent, or employee of such public service company in relation thereto, and with reference to the affairs of such company: PROVIDED, That any person other than a commissioner who shall make any such demand shall produce his or her authority from the commission to make such inspection.

Sec. 288. RCW 81.04.120 and 1961 c 14 s 81.04.120 are each amended to read as follows:

At the time fixed for the hearing mentioned in RCW 81.04.110, the complainant and the person or corporation complained of shall be entitled to be heard and introduce such evidence as he or she or it may desire. The commission shall issue process to enforce the attendance of all necessary

witnesses. At the conclusion of such hearing, the commission shall make and render findings concerning the subject matter and facts inquired into and enter its order based thereon. A copy of such order, certified under the seal of the commission, shall be served upon the person or corporation complained of, or his or her or its attorney, which order shall, of its own force, take effect and become operative twenty days after the service thereof, except as otherwise provided. Where an order cannot, in the judgment of the commission, be complied with within twenty days, the commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record of all proceedings had before the commission, or any member thereof, on any formal hearing had, and all testimony shall be taken down by a stenographer appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review any order of the commission, a transcript of such testimony, together with all exhibits introduced, and of the record and proceedings in the cause, shall constitute the record of the commission.

Sec. 289. RCW 81.04.280 and 2007 c 234 s 13 are each amended to read as follows:

A public service company subject to regulation by the commission as to rates and service shall not: (1) Permit any employee to sell, offer for sale, or solicit the purchase of any security of any other person or corporation during such hours as such employee is engaged to perform any duty of such public service company; (2) by any means or device, require any employee to purchase or contract to purchase any of its securities or those of any other person or corporation; or (3) require any employee to permit the deduction from his or her wages or salary of any sum as a payment or to be applied as a payment of any purchase or contract to purchase any security of such public service company or of any other person or corporation.

Sec. 290. RCW 81.04.460 and 1961 c 173 s 2 are each amended to read as follows:

It shall be the duty of the commission to enforce the provisions of this title and all other acts of this state affecting public service companies, the enforcement of which is not specifically vested in some other officer or tribunal. Any employee of the commission may, without a warrant, arrest any person found violating in his or her presence any provision of this title, or any rule or regulation adopted by the commission: PROVIDED, That each such employee shall be first specifically designated in writing by the commission or a member thereof as having been found to be a fit and proper person to exercise such authority. Upon being so designated, such person shall be a peace officer and a police officer for the purposes herein mentioned.

Sec. 291. RCW 81.04.500 and 1961 c 14 s 81.04.500 are each amended to read as follows:

It shall be the duty of the attorney general to represent and appear for the people of the state of Washington and the commission in all actions and proceedings involving any question under this title, or under or in reference to any act or order of the commission; and it shall be the duty of the attorney general generally to see that all laws affecting any of the persons or corporations

herein enumerated are complied with, and that all laws, the enforcement of which devolves upon the commission, are enforced, and to that end he or she is authorized to institute, prosecute, and defend all necessary actions and proceedings.

Sec. 292. RCW 81.04.510 and 1973 c 115 s 15 are each amended to read as follows:

Whether or not any person or corporation is conducting business requiring operating authority, or has performed or is performing any act requiring approval of the commission without securing such approval, shall be a question of fact to be determined by the commission. Whenever the commission believes that any person or corporation is engaged in operations without the necessary approval or authority required by any provision of this title, it may institute a special proceeding requiring such person or corporation to appear before the commission at a location convenient for witnesses and the production of evidence and bring with him or her or it books, records, accounts, and other memoranda, and give testimony under oath as to his or her or its operations or acts, and the burden shall rest upon such person or corporation of proving that his or her or its operations or acts are not subject to the provisions of this chapter. The commission may consider any and all facts that may indicate the true nature and extent of the operations or acts and may subpoena such witnesses and documents as it deems necessary.

After having made the investigation herein described, the commission is authorized and directed to issue the necessary order or orders declaring the operations or acts to be subject to, or not subject to, the provisions of this title. In the event the operations or acts are found to be subject to the provisions of this title, the commission is authorized and directed to issue cease and desist orders to all parties involved in the operations or acts.

In proceedings under this section, no person or corporation shall be excused from testifying or from producing any book, waybill, document, paper, or account before the commission when ordered to do so, on the ground that the testimony or evidence, book, waybill, document, paper, or account required of him or her or it may tend to incriminate him or her or it or subject him or her or it to penalty or forfeiture; but no person or corporation shall be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any account, transaction, matter, or thing concerning which he or she or it shall under oath have testified or produced documentary evidence in proceedings under this section: PROVIDED, That no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him or her in his or her testimony.

Sec. 293. RCW 81.08.110 and 1994 c 251 s 10 are each amended to read as follows:

Every public service company which, directly or indirectly, issues or causes to be issued, any stock or stock certificate or other evidence of interest or ownership, or bond, note, or other evidence of indebtedness, in nonconformity with the provisions of this chapter, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes allowed by this chapter shall be subject to a penalty of not more than one thousand dollars for each offense. Every violation of any such order, rules,

direction, demand, or requirement of the department, or of any provision of this chapter, shall be a separate and distinct offense and in case of a continuing violation every day's continuance thereof shall be deemed to be a separate and distinct offense.

The act, omission, or failure of any officer, agent, or employee of any public service company acting within the scope of his or her official duties or employment, shall in every case be deemed to be the act, omission, or failure of such public service company.

Sec. 294. RCW 81.24.070 and 1961 c 14 s 81.24.070 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall within thirty days be paid to the state treasurer and by him or her deposited to the public service revolving fund.

Sec. 295. RCW 81.28.290 and 1961 c 14 s 81.28.290 are each amended to read as follows:

The commission shall investigate all accidents that may occur upon the lines of any common carrier resulting in loss of life, to any passenger or employee, and may investigate any and all accidents or wrecks occurring on the line of any common carrier. Notice of the investigation shall be given in all cases for a sufficient length of time to enable the company affected to participate in the hearing and may be given orally or in writing, in such manner as the commission may prescribe.

Such witnesses may be examined as the commission deems necessary and proper to thoroughly ascertain the cause of the accident or wreck and fix the responsibility therefor. The examination and investigation may be conducted by an inspector or deputy inspector, and ~~((they))~~ he or she may administer oaths, issue subpoenas, and compel the attendance of witnesses, and when the examination is conducted by an inspector or deputy inspector, he or she shall make a full and complete report thereof to the commission.

Sec. 296. RCW 81.40.060 and 2003 c 53 s 388 are each amended to read as follows:

(1) It shall be unlawful for any railroad or other transportation company doing business in the state of Washington, or of any officer, agent, or servant of such railroad or other transportation company, to require any conductor, engineer, ~~((brakeman))~~ brake operator, ~~((fireman))~~ fire tender, purser, or other employee, as a condition of his or her continued employment, or otherwise to require or compel, or attempt to require or compel, any such employees to purchase of any such railroad or other transportation company or of any particular person, firm, or corporation or at any particular place or places, any uniform or other clothing or apparel, required by any such railroad or other transportation company to be used by any such employee in the performance of his or her duties as such; and any such railroad or transportation company or any officer, agent or servant thereof, who shall order or require any conductor, engineer, ~~((brakeman))~~ brake operator, ~~((fireman))~~ fire tender, purser, or other person in its employ, to purchase any uniform or other clothing or apparel as aforesaid, shall be deemed to have required such purchase as a condition of such employee's continued employment.

(2) Any railroad or other transportation company doing business in the state of Washington, or any officer, agent, or servant thereof, violating this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail of the county where the misdemeanor is committed, not exceeding six months.

Sec. 297. RCW 81.40.110 and 1961 c 14 s 81.40.110 are each amended to read as follows:

Any railroad operating within this state, shall not employ or use as (~~flagman~~) flagger any person or persons who cannot read, write, and speak the English language.

Sec. 298. RCW 81.44.070 and 1961 c 14 s 81.44.070 are each amended to read as follows:

It shall be the duty of the inspector of tracks, bridges, structures, and equipment, and such deputies as may be appointed, to inspect all equipment, and appliances connected therewith, and all apparatus, tracks, bridges and structures, depots and facilities and accommodations connected therewith, and facilities and accommodations furnished for the use of employees, and make such reports of his or her inspection to the commission as may be required. He or she shall, on discovering any defective equipment or appliances connected therewith, rendering the use of such equipment dangerous, immediately report the same to the superintendent of the road on which it is found, and to the proper official at the nearest point where such defect is discovered, describing the defect. Such inspector may, on the discovery of any defect rendering the use of any car, motor or locomotive dangerous, condemn such car, motor or locomotive, and order the same out of service until repaired and put in good working order. He or she shall, on discovering any track, bridge, or structure defective or unsafe in any particular, report such condition to the commission, and, in addition thereto, report the same to the official in charge of the division of such railroad upon which such defect is found. In case any track, bridge, or structure is found so defective as to be dangerous to the employees or public for a train or trains to be operated over the same, the inspector is hereby authorized to condemn such track, bridge, or structure and notify the commission and the office in charge of the division of such railroad where such defect is found of his or her action concerning the same, reporting in detail the defect complained of, and the work or improvements necessary to repair such defect. He or she shall also report to the commission the violation of any law governing, controlling, or affecting the conduct of public service companies in this state, as such companies are defined in this title or in Title 80 RCW.

The inspector, or such deputies as may be appointed, shall have the right and privilege of riding on any locomotive, either on freight or passenger trains, or on the caboose of any freight train, for the purpose of inspecting the track on any railroad in this state: PROVIDED, That the engineer or conductor in charge of any such locomotive or caboose may require such inspector to produce his or her authority, under the seal of the commission, showing that he or she is such inspector or deputy inspector.

The inspector, or such deputy inspector or inspectors as may be appointed, shall, when required by the commission, inspect any street railroad, gas plant,

electrical plant, water system, telephone line, or telegraph line, and upon discovering any defective or dangerous track, bridge, structure, equipment, apparatus, machinery, appliance, facility, instrumentality, or building, rendering the use of the same dangerous to the public or to the employees of the company owning or operating the same, report the same to the commission, and to the official in charge of such road, plant, system, or line.

Sec. 299. RCW 81.48.060 and 1961 c 14 s 81.48.060 are each amended to read as follows:

Every engineer, (~~(motorman)~~) motor operator, (~~(gripman)~~) grip operator, conductor, (~~(brakeman)~~) brake operator, switch tender, train dispatcher, or other officer, agent, or servant of any railway company, who shall be guilty of any willful violation or omission of his or her duty as such officer, agent, or servant, by which human life or safety shall be endangered, for which no punishment is specially prescribed, shall be guilty of a misdemeanor.

Sec. 300. RCW 81.48.070 and 1994 c 261 s 19 are each amended to read as follows:

Railroad companies in carrying or transporting animals shall not permit them to be confined in cars for a longer period than forty-eight consecutive hours without unloading them for rest, water, and feeding for a period of at least two consecutive hours, unless prevented from so unloading them by unavoidable accident. In estimating such confinement, the time during which the animals have been confined without such rest on connecting roads from which they are received shall be included. Animals so unloaded shall, during such rest, be properly fed, watered by the owner or person having the custody of them, or in case of his or her default in so doing, then by the railroad company transporting them, at the expense of said owner or person in custody thereof, and said company shall in such case have a lien upon such animals for food, care, and custody furnished, and shall not be liable for such detention of such animals. If animals are transported where they can and do have proper food, water, space, and opportunity for rest, the foregoing provision in regard to their being unloaded shall not apply. Violators of this section shall be punished by fine not exceeding one thousand dollars per animal.

Sec. 301. RCW 81.52.050 and 1961 c 14 s 81.52.050 are each amended to read as follows:

Every person, company, or corporation having the control or management of any railroad shall, outside of any corporate city or town, and outside the limits of any sidetrack or switch, cause to be constructed and maintained in good repair on each side of said railroad, along the line of said right-of-way of such person, company, or corporation operating the same, a substantial fence, and at every point where any roadway or other public highway shall cross said railroad, a safe and sufficient crossing must be built and maintained, and on each side of such crossing and at each end of such sidetrack or switch, outside of any incorporated city or town, a sufficient cattle guard: PROVIDED, That any person holding land on both sides of said right-of-way shall have the right to put in gates for his or her own use at such places as may be convenient.

Sec. 302. RCW 81.53.010 and 1961 c 14 s 81.53.010 are each amended to read as follows:

The term "commission," when used in this chapter, means the utilities and transportation commission of Washington.

The term "highway," when used in this chapter, includes all state and county roads, streets, alleys, avenues, boulevards, parkways, and other public places actually open and in use, or to be opened and used, for travel by the public.

The term "railroad," when used in this chapter, means every railroad, including interurban and suburban electric railroads, by whatsoever power operated, for the public use in the conveyance of persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, sidings, tracks, stations, and terminal facilities of every kind, used, operated, controlled, managed, or owned by or in connection therewith. The said term shall also include every logging and other industrial railway owned or operated primarily for the purpose of carrying the property of its owners or operators or of a limited class of persons, with all tracks, spurs, and sidings used in connection therewith. The said term shall not include street railways operating within the limits of any incorporated city or town.

The term "railroad company," when used in this chapter, includes every corporation, company, association, joint stock association, partnership, or person, its, their, or his or her lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing any railroad, as that term is defined in this section.

The term "over-crossing," when used in this chapter, means any point or place where a highway crosses a railroad by passing above the same.

The term "under-crossing," when used in this chapter, means any point or place where a highway crosses a railroad by passing under the same.

The term "over-crossing" or "under-crossing," shall also mean any point or place where one railroad crosses another railroad not at grade.

The term "grade crossing," when used in this chapter, means any point or place where a railroad crosses a highway or a highway crosses a railroad or one railroad crosses another, at a common grade.

Sec. 303. RCW 81.53.030 and 1984 c 7 s 373 are each amended to read as follows:

Whenever a railroad company desires to cross a highway or railroad at grade, it shall file a written petition with the commission setting forth the reasons why the crossing cannot be made either above or below grade. Whenever the legislative authority of a county, or the municipal authorities of a city, or the state officers authorized to lay out and construct state roads, or the state parks and recreation commission, desire to extend a highway across a railroad at grade, they shall file a written petition with the commission, setting forth the reasons why the crossing cannot be made either above or below grade. Upon receiving the petition, the commission shall immediately investigate it, giving at least ten days' notice to the railroad company and the county or city affected thereby, of the time and place of the investigation, to the end that all parties interested may be present and heard. If the highway involved is a state road or parkway, the secretary of transportation or the state parks and recreation commission shall be notified of the time and place of hearing. The evidence introduced shall be reduced to writing and be filed by the commission. If it finds that it is not practicable to cross the railroad or highway either above or below grade, the commission shall enter a written order in the cause, either granting or denying

the right to construct a grade crossing at the point in question. The commission may provide in the order authorizing a grade crossing, or at any subsequent time, that the railroad company shall install and maintain proper signals, warnings, ~~((flagmen))~~ **flaggers**, interlocking devices, or other devices or means to secure the safety of the public and its employees. In respect to existing railroad grade crossings over highways the construction of which grade crossings was accomplished other than under a commission order authorizing it, the commission may in any event require the railroad company to install and maintain, at or near each crossing, on both sides of it, a sign known as the sawbuck crossing sign with the lettering "Railroad Crossing" inscribed thereon with a suitable inscription indicating the number of tracks. The sign shall be of standard design conforming to specifications furnished by the Washington state department of transportation.

Sec. 304. RCW 81.53.120 and 1961 c 14 s 81.53.120 are each amended to read as follows:

Whenever two or more lines of railroad owned or operated by different companies cross a highway, or each other, by an over-crossing, under-crossing, or grade crossing required or permitted by this chapter or by an order of the commission, the portion of the expense of making such crossing not chargeable to any municipality, county, or to the state, and the expense of constructing and maintaining such signals, warnings, ~~((flagmen))~~ **flaggers**, interlocking devices, or other devices or means to secure the safety of the public and the employees of the railroad company, as the commission may require to be constructed and maintained, shall be apportioned between said railroad companies by the commission in such manner as justice may require, regard being had for all facts relating to the establishment, reason for, and construction of said improvement, unless said companies shall mutually agree upon an apportionment. If it becomes necessary for the commission to make an apportionment between the railroad companies, a hearing for that purpose shall be held, at least ten days' notice of which shall be given.

Sec. 305. RCW 81.53.261 and 2007 c 234 s 99 are each amended to read as follows:

Whenever the secretary of transportation or the governing body of any city, town, or county, or any railroad company whose road is crossed by any highway, shall deem that the public safety requires signals or other warning devices, other than sawbuck signs, at any crossing of a railroad at common grade by any state, city, town, or county highway, road, street, alley, avenue, boulevard, parkway, or other public place actually open and in use or to be opened and used for travel by the public, he or she or it shall file with the utilities and transportation commission a petition in writing, alleging that the public safety requires the installation of specified signals or other warning devices at such crossing or specified changes in the method and manner of existing crossing warning devices. Upon receiving such petition, the commission shall promptly set the matter for hearing, giving at least twenty days notice to the railroad company or companies and the county or municipality affected thereby, or the secretary of transportation in the case of a state highway, of the time and place of such hearing. At the time and place fixed in the notice, all persons and parties interested shall be entitled to be heard and introduce evidence, which shall be

reduced to writing and filed by the commission. If the commission shall determine from the evidence that public safety does not require the installation of the signal, other warning device or change in the existing warning device specified in the petition, it shall make determinations to that effect and enter an order denying said petition in toto. If the commission shall determine from the evidence that public safety requires the installation of such signals or other warning devices at such crossing or such change in the existing warning devices at said crossing, it shall make determinations to that effect and enter an order directing the installation of such signals or other warning devices or directing that such changes shall be made in existing warning devices. The commission shall also at said hearing apportion the entire cost of installation and maintenance of such signals or other warning devices, other than sawbuck signs, as provided in RCW 81.53.271: PROVIDED, That upon agreement by all parties to waive hearing, the commission shall forthwith enter its order.

No railroad shall be required to install any such signal or other warning device until the public body involved has either paid or executed its promise to pay to the railroad its portion of the estimated cost thereof.

Nothing in this section shall be deemed to foreclose the right of the interested parties to enter into an agreement, franchise, or permit arrangement providing for the installation of signals or other warning devices at any such crossing or for the apportionment of the cost of installation and maintenance thereof, or compliance with an existing agreement, franchise, or permit arrangement providing for the same.

The hearing and determinations authorized by this section may be instituted by the commission on its own motion, and the proceedings, hearing, and consequences thereof shall be the same as for the hearing and determination of any petition authorized by this section.

No part of the record, or a copy thereof, of the hearing and determination provided for in this section and no finding, conclusion, or order made pursuant thereto shall be used as evidence in any trial, civil or criminal, arising out of an accident at or in the vicinity of any crossing prior to installation of signals or other warning devices pursuant to an order of the commission as a result of any such investigation.

Any order entered by the utilities and transportation commission under this section shall be subject to review, supersedeas, and appeal as provided in chapter 34.05 RCW.

Nothing in this section shall be deemed to relieve any railroad from liability on account of failure to provide adequate protective devices at any such crossing.

Sec. 306. RCW 81.64.160 and 2003 c 53 s 397 are each amended to read as follows:

(1) No person, agent, officer, manager, or superintendent or receiver of any corporation or owner of streetcars shall require his, her, or its (~~(gripman)~~) grip operators, (~~(motormen)~~) motor operators, drivers, or conductors to work more than ten hours in any twenty-four hours.

(2) Any person, agent, officer, manager, superintendent, or receiver of any corporation, or owner of streetcar or cars, violating this section is guilty of a misdemeanor, and shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars for each day in which such (~~(gripman)~~) grip

operator, (~~motorman~~) motor operator, driver, or conductor in the employ of such person, agent, officer, manager, superintendent, or receiver of such corporation or owner is required to work more than ten hours during each twenty-four hours, as provided in this section.

(3) It is the duty of the prosecuting attorney of each county of this state to institute the necessary proceedings to enforce the provisions of this section.

Sec. 307. RCW 81.77.020 and 1989 c 431 s 18 are each amended to read as follows:

No person, his or her lessees, receivers, or trustees, shall engage in the business of operating as a solid waste collection company in this state, except in accordance with the provisions of this chapter: PROVIDED, That the provisions of this chapter shall not apply to the operations of any solid waste collection company under a contract of solid waste disposal with any city or town, nor to any city or town which itself undertakes the disposal of solid waste.

Sec. 308. RCW 81.80.100 and 1961 c 14 s 81.80.100 are each amended to read as follows:

Permits granted by the commission shall be in such form as the commission shall prescribe and shall set forth the name and address of the person to whom the permit is granted, the nature of the transportation service to be engaged in and the principal place of operation, termini or route to be used or territory to be served by the operation. No permit holder shall operate except in accordance with the permit issued to him or her.

Sec. 309. RCW 81.80.355 and 1961 c 14 s 81.80.355 are each amended to read as follows:

Any person not holding a permit authorizing him or her to operate as a common carrier, contract carrier, or temporary carrier for the transportation of property for compensation in this state, or an exempt carrier, who displays on any building, vehicle, billboard, or in any manner, any advertisement of, or by circular, letter, newspaper, magazine, poster, card, or telephone directory, advertises the transportation of property for compensation shall be guilty of a misdemeanor and punishable as such.

Sec. 310. RCW 81.96.030 and 1984 c 7 s 376 are each amended to read as follows:

The secretary of transportation or his or her designee may serve as the Washington state member to the western regional short-haul air transportation compact and may execute the compact on behalf of this state with any other state or states legally joining therein.

Sec. 311. RCW 82.03.050 and 1975-'76 2nd ex.s. c 34 s 176 are each amended to read as follows:

The board shall operate on either a part-time or a full-time basis, as determined by the governor. If it is determined that the board shall operate on a full-time basis, each member of the board shall receive an annual salary to be determined by the governor. If it is determined that the board shall operate on a part-time basis, each member of the board shall receive compensation on the basis of seventy-five dollars for each day spent in performance of his or her duties, but such compensation shall not exceed ten thousand dollars in a fiscal year. Each board member shall receive reimbursement for travel expenses

incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Sec. 312. RCW 82.03.060 and 1967 ex.s. c 26 s 35 are each amended to read as follows:

Each member of the board of tax appeals:

(1) Shall not be a candidate for nor hold any other public office or trust, and shall not engage in any occupation or business interfering with or inconsistent with his or her duty as a member of the board, nor shall he or she serve on or under any committee of any political party; and

(2) Shall not for a period of one year after the termination of his or her membership on the board, act in a representative capacity before the board on any matter.

Sec. 313. RCW 82.03.080 and 1967 ex.s. c 26 s 37 are each amended to read as follows:

The board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a (~~(chairman)~~) chair, and shall at least biennially thereafter meet and elect such a (~~(chairman)~~) chair.

Sec. 314. RCW 82.04.290 and 2011 c 174 s 101 are each amended to read as follows:

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

(2)(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 shall be equal to the gross income of the business multiplied by the rate of 1.5 percent.

(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 shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

(3)(a) Until July 1, 2024, 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 shall be equal to the gross income of the business multiplied by a rate of 0.9 percent.

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

Sec. 315. RCW 82.04.425 and 1980 c 37 s 78 are each amended to read as follows:

This chapter shall not apply to sales for resale by persons regularly engaged in the business of making sales of the type of property so sold to other persons

similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to his or her vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable him or her to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller; nor to sales by a wholly owned subsidiary of a person making sales at retail which are exempt under RCW 82.08.0262 when the parent corporation shall have paid the tax imposed under this chapter.

Sec. 316. RCW 82.08.0266 and 1999 c 358 s 5 are each amended to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales to nonresidents of this state for use outside of this state of watercraft requiring coast guard registration or registration by the state of principal use according to the federal boating act of 1958, even though delivery be made within this state, but only when (1) the watercraft will not be used within this state for more than forty-five days and (2) an appropriate exemption certificate supported by identification ascertaining residence as required by the department of revenue and signed by the purchaser or his or her agent establishing the fact that the purchaser is a nonresident and that the watercraft is for use outside of this state, a copy of which shall be retained by the dealer.

Sec. 317. RCW 82.08.0269 and 1980 c 37 s 36 are each amended to read as follows:

The tax levied by RCW 82.08.020 shall not apply to sales for use in states, territories, and possessions of the United States which are not contiguous to any other state, but only when, as a necessary incident to the contract of sale, the seller delivers the subject matter of the sale to the purchaser or his or her designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories, and possessions.

Sec. 318. RCW 82.08.100 and 2004 c 153 s 303 are each amended to read as follows:

The department of revenue, by general regulation, shall provide that a taxpayer whose regular books of account are kept on a cash receipts basis may file returns based upon his or her cash receipts for each reporting period and pay the tax herein provided upon such basis in lieu of reporting and paying the tax on all sales made during such period. A taxpayer filing returns on a cash receipts basis is not required to pay such tax on debt subject to credit or refund under RCW 82.08.037.

Sec. 319. RCW 82.12.070 and 2004 c 153 s 305 are each amended to read as follows:

The department of revenue, by general regulation, shall provide that a taxpayer whose regular books of account are kept on a cash receipts basis may file returns based upon his or her cash receipts for each reporting period and pay the tax herein provided upon such basis in lieu of reporting and paying the tax on all sales made during such period. A taxpayer filing returns on a cash receipts

basis is not required to pay such tax on debt subject to credit or refund under RCW 82.12.037.

Sec. 320. RCW 82.24.210 and 2003 c 25 s 11 are each amended to read as follows:

The department of revenue may promulgate rules and regulations providing for the refund to dealers for the cost of stamps affixed to articles taxed herein, which by reason of damage become unfit for sale and are destroyed by the dealer or returned to the manufacturer or jobber. In the case of any articles to which stamps have been affixed, and which articles have been sold and shipped to a regular dealer in such articles in another state, the seller in this state shall be entitled to a refund of the actual amount of the stamps so affixed, less the affixing discount, upon condition that the seller in this state makes affidavit that the articles were sold and shipped outside of the state and that he or she has received from the purchaser outside the state a written acknowledgment that he or she has received such articles with the amount of stamps affixed thereto, together with the name and address of such purchaser. The department of revenue may redeem any unused stamps purchased from it at the face value thereof less the affixing discount. A distributor or wholesaler that has lawfully affixed stamps to cigarettes, and subsequently is unable to sell those cigarettes lawfully because the cigarettes are removed from the directory created pursuant to RCW 70.158.030(2), may apply to the department for a refund of the cost of the stamps.

Sec. 321. RCW 82.24.250 and 2008 c 226 s 5 are each amended to read as follows:

(1) No person other than: (a) A licensed wholesaler in the wholesaler's own vehicle; or (b) a person who has given notice to the board in advance of the commencement of transportation shall transport or cause to be transported in this state cigarettes not having the stamps affixed to the packages or containers.

(2) When transporting unstamped cigarettes, such persons shall have in their actual possession or cause to have in the actual possession of those persons transporting such cigarettes on their behalf invoices or delivery tickets for such cigarettes, which shall show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported.

(3) If unstamped cigarettes are consigned to or purchased by any person in this state, such purchaser or consignee must be a person who is authorized by this chapter to possess unstamped cigarettes in this state.

(4) In the absence of the notice of transportation required by this section or in the absence of such invoices or delivery tickets, or, if the name or address of the consignee or purchaser is falsified or if the purchaser or consignee is not a person authorized by this chapter to possess unstamped cigarettes, the cigarettes so transported shall be deemed contraband subject to seizure and sale under the provisions of RCW 82.24.130.

(5) Transportation of cigarettes from a point outside this state to a point in some other state will not be considered a violation of this section provided that the person so transporting such cigarettes has in his or her possession adequate invoices or delivery tickets which give the true name and address of such out-of-state seller or consignor and such out-of-state purchaser or consignee.

(6) In any case where the department or its duly authorized agent, or any peace officer of the state, has knowledge or reasonable grounds to believe that any vehicle is transporting cigarettes in violation of this section, the department, such agent, or such police officer, is authorized to stop such vehicle and to inspect the same for contraband cigarettes.

(7) For purposes of this section, the term "person authorized by this chapter to possess unstamped cigarettes in this state" means:

- (a) A wholesaler, licensed under Washington state law;
- (b) The United States or an agency thereof;

(c) Any person, including an Indian tribal organization, who, after notice has been given to the board as provided in this section, brings or causes to be brought into the state unstamped cigarettes, if within a period of time after receipt of the cigarettes as the department determines by rule to be reasonably necessary for the purpose the person has caused stamps to be affixed in accordance with RCW 82.24.030 or otherwise made payment of the tax required by this chapter in the manner set forth in rules adopted by the department; and

(d) Any purchaser or consignee of unstamped cigarettes, including an Indian tribal organization, who has given notice to the board in advance of receiving unstamped cigarettes and who within a period of time after receipt of the cigarettes as the department determines by rule to be reasonably necessary for the purpose the person has caused stamps to be affixed in accordance with RCW 82.24.030 or otherwise made payment of the tax required by this chapter in the manner set forth in rules adopted by the department.

Nothing in this subsection (7) shall be construed as modifying RCW 82.24.050 or 82.24.110.

(8) Nothing in this section shall be construed as limiting any otherwise lawful activity under a cigarette tax compact pursuant to chapter 43.06 RCW.

(9) Nothing in this section shall be construed as limiting the right to travel upon all public highways under Article III of the treaty with the Yakamas of 1855.

Sec. 322. RCW 82.32.070 and 1999 c 358 s 14 are each amended to read as follows:

(1) Every person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW shall keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of any tax for which he or she may be liable, which records shall include copies of all federal income tax and state tax returns and reports made by him or her. All his or her books, records, and invoices shall be open for examination at any time by the department of revenue. In the case of an out-of-state person or concern which does not keep the necessary books and records within this state, it shall be sufficient if it produces within the state such books and records as shall be required by the department of revenue, or permits the examination by an agent authorized or designated by the department of revenue at the place where such books and records are kept. Any person who fails to comply with the requirements of this section shall be forever barred from questioning, in any court action or proceedings, the correctness of any assessment of taxes made by the department of revenue based upon any period for which such books, records, and invoices have not been so kept and preserved.

(2) A person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty determined by the director, but not to exceed two hundred fifty dollars. The department shall notify the taxpayer and collect the penalty in the same manner as penalties under RCW 82.32.100.

Sec. 323. RCW 82.32.120 and 1975 1st ex.s. c 278 s 80 are each amended to read as follows:

All officers empowered by law to administer oaths, the director of the department of revenue, and such officers as he or she may designate shall have the power to administer an oath to any person or to take the acknowledgment of any person with respect to any return or report required by law or the rules and regulations of the department of revenue.

Sec. 324. RCW 82.32.170 and 2007 c 111 s 111 are each amended to read as follows:

Any person, having paid any tax, original assessment, additional assessment, or corrected assessment of any tax, may apply to the department within the time limitation for refund provided in this chapter, by petition in writing for a correction of the amount paid, and a conference for examination and review of the tax liability, in which petition he or she shall set forth the reasons why the conference should be granted, and the amount in which the tax, interest, or penalty, should be refunded. The department shall promptly consider the petition, and may grant or deny it. If denied, the petitioner shall be notified by mail, or electronically as provided in RCW 82.32.135, thereof forthwith. If a conference is granted, the department shall notify the petitioner by mail, or electronically as provided in RCW 82.32.135, of the time and place fixed therefor. After the hearing, the department may make such determination as may appear to it just and lawful, and shall mail a copy of its determination to the petitioner, or provide a copy of its determination electronically as provided in RCW 82.32.135.

Sec. 325. RCW 82.32.260 and 1975 1st ex.s. c 278 s 87 are each amended to read as follows:

In the case of any corporation organized under the laws of this state, the courts shall not enter or sign any decree of dissolution, nor shall the secretary of state file in his or her office any certificate of dissolution, and in the case of any corporation organized under the laws of another jurisdiction and admitted to do business in this state, the secretary of state shall withhold the issuance of any certificate of withdrawal, until proof, in the form of a certificate from the department of revenue, has been furnished by the applicant for such dissolution or withdrawal, that every license fee, tax, increase, or penalty has been paid or provided for.

Sec. 326. RCW 82.32.270 and 1975 1st ex.s. c 278 s 88 are each amended to read as follows:

The taxes imposed hereunder, and the returns required therefor, shall be upon a calendar year basis; but, if any taxpayer in transacting his or her business, keeps books reflecting the same on a basis other than the calendar year, he or she

may, with consent of the department of revenue, make his or her returns, and pay taxes upon the basis of his or her accounting period as shown by the method of keeping the books of his or her business.

Sec. 327. RCW 82.32.310 and 1975 1st ex.s. c 278 s 91 are each amended to read as follows:

When recovery is had in any suit or proceeding against an officer, agent, or employee of the department of revenue for any act done by him or her or for the recovery of any money exacted by or paid to him or her and by him or her paid over to the department, in the performance of his or her official duty, and the court certifies that there was probable cause for the act done by such officer, agent, or employee, or that he or she acted under the direction of the department or an officer thereof, no execution shall issue against such officer, agent, or employee, but the amount so recovered shall, upon final judgment, be paid by the department as an expense of operation.

Sec. 328. RCW 82.36.110 and 1993 c 54 s 3 are each amended to read as follows:

If any person liable for the tax imposed by this chapter fails to pay the same, the amount thereof, including any interest, penalty, or addition to such tax, together with any costs that may accrue in addition thereto, shall be a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by such person, whether such property is employed by such person in the prosecution of business or is in the hands of a trustee, or receiver, or assignee for the benefit of creditors, from the date the taxes were due and payable, until the amount of the lien is paid or the property sold in payment thereof.

The lien shall have priority over any lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that such lien shall not be valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached prior to the time the department has filed notice of such lien in the office of the county auditor of the county in which the principal place of business of the taxpayer is located.

The auditor, upon presentation of a notice of lien, and without requiring the payment of any fee, shall file and index it in the manner now provided for deeds and other conveyances except that he or she shall not be required to include, in the index, any description of the property affected by the lien. The lien shall continue until the amount of the tax, together with any penalties and interest subsequently accruing thereon, is paid. The department may issue a certificate of release of lien when the amount of the tax, together with any penalties and interest subsequently accruing thereon, has been satisfied, and such release may be recorded with the auditor of the county in which the notice of lien has been filed.

The department shall furnish to any person applying therefor a certificate showing the amount of all liens for motor vehicle fuel tax, penalties and interest that may be of record in the files of the department against any person under the provisions of this chapter.

Sec. 329. RCW 82.36.250 and 1961 c 15 s 82.36.250 are each amended to read as follows:

Any person who purchases or otherwise acquires motor vehicle fuel upon which the tax has not been paid, from the United States government, or any of its agents or officers, for use not specifically associated with any governmental function or operation or so acquires inflammable petroleum products other than motor vehicle fuel and uses the same in the propulsion of motor vehicles as herein defined, for a use not associated with any governmental function or operation, shall pay to the state the tax herein provided upon the motor vehicle fuel, or other inflammable petroleum products so acquired. It shall be unlawful for any person to use or to conspire with any governmental official, agent, or employee for the use of any requisition, purchase order, or any card or any authority to which he or she is not specifically entitled by government regulations, for the purpose of obtaining any motor vehicle fuel or other inflammable petroleum products upon which the state tax has not been paid.

Sec. 330. RCW 82.36.310 and 1998 c 176 s 38 and 1998 c 115 s 3 are each reenacted and amended to read as follows:

Any person claiming a refund for motor vehicle fuel used or exported as in this chapter provided shall not be entitled to receive such refund until he or she presents to the director a claim upon forms to be provided by the director with such information as the director shall require, which claim to be valid shall in all cases be accompanied by invoices issued to the claimant at the time of the purchases of the motor vehicle fuel, approved as to invoice form by the director. The requirement to provide invoices may be waived for small refund amounts, as determined by the department. Claims for refund of motor vehicle fuel tax must be at least twenty dollars.

Any person claiming refund by reason of exportation of motor vehicle fuel shall in addition to the invoices required furnish to the director the export certificate therefor, and the signature on the exportation certificate shall be certified by a notary public. In all cases, the claim shall be signed by the person claiming the refund, if it is a corporation, by some proper officer of the corporation, or if it is a limited liability company, by some proper manager or member of the limited liability company.

Sec. 331. RCW 82.36.410 and 1973 c 95 s 5 are each amended to read as follows:

All moneys collected by the director shall be transmitted forthwith to the state treasurer, together with a statement showing whence the moneys were derived, and shall be by him or her credited to the motor vehicle fund.

Sec. 332. RCW 82.38.060 and 1996 c 90 s 1 are each amended to read as follows:

In the event the tax on special fuel imported into this state in the fuel supply tanks of motor vehicles for taxable use on Washington highways can be more accurately determined on a mileage basis, the department is authorized to approve and adopt such basis. When a special fuel user imports special fuel into or exports special fuel from the state of Washington in the fuel supply tanks of motor vehicles, the amount of special fuel consumed in such vehicles on Washington highways shall be deemed to be such proportion of the total amount of such special fuel consumed in his or her entire operations within and without this state as the total number of miles traveled on the public highways within this state bears to the total number of miles traveled within and without the state.

The department may also adopt such mileage basis for determining the taxable use of special fuel used in motor vehicles which travel regularly over prescribed courses on and off the highways within the state of Washington. In the absence of records showing the number of miles actually operated per gallon of special fuel consumed, fuel consumption shall be calculated at the rate of one gallon for every: (1) Four miles traveled by vehicles over forty thousand pounds gross vehicle weight; (2) seven miles traveled by vehicles twelve thousand one to forty thousand pounds gross vehicle weight; (3) ten miles traveled by vehicles six thousand one to twelve thousand pounds gross vehicle weight; and (4) sixteen miles traveled by vehicles six thousand pounds or less gross vehicle weight.

Sec. 333. RCW 82.38.275 and 1979 c 40 s 20 are each amended to read as follows:

The department may initiate and conduct investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with the provisions of this chapter or any rules or regulations issued hereunder.

For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him or her may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

In case of contumacy by or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction upon application by the director, may issue to that person an order requiring him or her to appear before the director, or the officer designated by him or her to produce testimony or other evidence touching the matter under investigation or in question. The failure to obey an order of the court may be punishable by contempt.

Sec. 334. RCW 82.41.080 and 1982 c 161 s 8 are each amended to read as follows:

The department may initiate and conduct investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with this chapter or any rules issued hereunder.

For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

In case of contumacy by or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the director, may issue to that person an order requiring him or her to appear before the director, or the officer designated by the director, to produce testimony or other evidence touching the matter under investigation or in question. The failure to obey an order of the court may be punishable by contempt.

Sec. 335. RCW 82.42.040 and 2008 c 181 s 507 are each amended to read as follows:

The director shall by rule and regulation adopted as provided in chapter 34.05 RCW (Administrative Procedure Act) set up the necessary administrative procedure for collection by the department of the aircraft fuel excise tax as provided for in RCW 82.42.020, placing the responsibility of collection of said tax upon every distributor of aircraft fuel within the state; he or she may require the licensing of every distributor of aircraft fuel and shall require such a corporate surety bond or security of any distributor or person not otherwise bonded under provisions of chapter 82.36 RCW as is provided for distributors of motor vehicle fuel under RCW 82.36.060; he or she shall provide such forms and may require such reports or statements as in his or her determination shall be necessary for the proper administration of this chapter. The director may require such records to be kept, and for such periods of time, as deemed necessary for the administration of this chapter, which records shall be available at all times for the director or his or her representative who may require a statement under oath as to the contents thereof. During a state of emergency declared under RCW 43.06.010(12), the director, on his or her own motion or at the request of any taxpayer affected by the emergency, may extend the time for filing any report or the due date for tax remittances as the director deems proper.

Every application for a distributor's license must contain the following information to the extent it applies to the applicant:

(1) Proof as the department may require concerning the applicant's identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;

(2) The applicant's form and place of organization including proof that the individual, partnership, or corporation is licensed to do business in this state;

(3) The qualification and business history of the applicant and any partner, officer, or director;

(4) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment in a federal or state court;

(5) Whether the applicant has been adjudged guilty of a crime that directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered a judgment within the preceding five years in a civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners.

After receipt of an application for a license, the director may conduct an investigation to determine whether the facts set forth are true. The director may require a fingerprint record check of the applicant through the Washington state patrol criminal identification system and the federal bureau of investigation before issuance of a license. The results of the background investigation including criminal history information may be released to authorized department personnel as the director deems necessary. The department shall charge a license holder or license applicant a fee of fifty dollars for each background investigation conducted.

An applicant who makes a false statement of a material fact on the application may be prosecuted for false swearing as defined by RCW 9A.72.040.

Sec. 336. RCW 82.42.100 and 1967 ex.s. c 10 s 10 are each amended to read as follows:

The director is charged with the enforcement of the provisions of this chapter and rules and regulations promulgated hereunder. The director may, in his or her discretion, call on the state patrol or any peace officer in the state, who shall then aid in the enforcement of this chapter or any rules or regulations promulgated hereunder.

Sec. 337. RCW 82.44.140 and 1979 c 158 s 237 are each amended to read as follows:

Any duties required by this chapter to be performed by the county auditor may be performed by any other person designated by the director of licensing and authorized by him or her to receive motor vehicle license fees and issue receipt therefor.

Sec. 338. RCW 82.50.520 and 1983 c 26 s 4 are each amended to read as follows:

The following travel trailers or campers are specifically exempted from the operation of this chapter:

(1) Any unoccupied travel trailer or camper when it is part of an inventory of travel trailers or campers held for sale by a manufacturer or dealer in the course of his or her business.

(2) A travel trailer or camper owned by any government or political subdivision thereof.

(3) A travel trailer or camper owned by a nonresident and currently licensed in another state, unless such travel trailer or camper is required by law to be licensed in this state.

For the purposes of this subsection only, a camper owned by a nonresident shall be considered licensed in another state if the vehicle to which such camper is attached is currently licensed in another state.

(4) Travel trailers eligible to be used under a dealer's license plate, and taxed under RCW 82.44.030 while so eligible.

Sec. 339. RCW 82.56.030 and 1967 c 125 s 3 are each amended to read as follows:

The member representing this state on the multistate tax commission may be represented thereon by an alternate designated by him or her. Any such alternate shall be a principal deputy or assistant of the member of the commission in the agency which the member heads.

Sec. 340. RCW 82.56.040 and 1967 c 125 s 4 are each amended to read as follows:

The governor, after consultation with representatives of local governments, shall appoint three persons who are representative of subdivisions affected or likely to be affected by the multistate tax compact. The member of the commission representing this state, and any alternate designated by him or her, shall consult regularly with these appointees, in accordance with Article VI 1(b) of the compact.

Sec. 341. RCW 83.100.020 and 2005 c 516 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Decedent" means a deceased individual;

(2) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him or her by the director;

(3) "Federal return" means any tax return required by chapter 11 of the internal revenue code;

(4) "Federal tax" means a tax under chapter 11 of the internal revenue code;

(5) "Gross estate" means "gross estate" as defined and used in section 2031 of the internal revenue code;

(6) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

(7) "Person required to file the federal return" means any person required to file a return required by chapter 11 of the internal revenue code, such as the personal representative of an estate;

(8) "Property" means property included in the gross estate;

(9) "Resident" means a decedent who was domiciled in Washington at time of death;

(10) "Taxpayer" means a person upon whom tax is imposed under this chapter, including an estate or a person liable for tax under RCW 83.100.120;

(11) "Transfer" means "transfer" as used in section 2001 of the internal revenue code. However, "transfer" does not include a qualified heir disposing of an interest in property qualifying for a deduction under RCW 83.100.046 or ceasing to use the property for farming purposes;

(12) "Internal revenue code" means, for the purposes of this chapter and RCW 83.110.010, the United States internal revenue code of 1986, as amended or renumbered as of January 1, 2005;

(13) "Washington taxable estate" means the federal taxable estate, less: (a) One million five hundred thousand dollars for decedents dying before January 1, 2006; and (b) two million dollars for decedents dying on or after January 1, 2006; and (c) the amount of any deduction allowed under RCW 83.100.046; and

(14) "Federal taxable estate" means the taxable estate as determined under chapter 11 of the internal revenue code without regard to: (a) The termination of the federal estate tax under section 2210 of the internal revenue code or any other provision of law, and (b) the deduction for state estate, inheritance, legacy, or succession taxes allowable under section 2058 of the internal revenue code.

Sec. 342. RCW 84.08.120 and 1975 1st ex.s. c 278 s 155 are each amended to read as follows:

It shall be the duty of every public officer to comply with any lawful order, rule, or regulation of the department of revenue made under the provisions of this title, and whenever it shall appear to the department of revenue that any public officer or employee whose duties relate to the assessment or equalization of assessments of property for taxation or to the levy or collection of taxes has failed to comply with the provisions of this title or with any other law relating to such duties or the rules of the department made in pursuance thereof, the department after a hearing on the facts may issue its order directing such public officer or employee to comply with such provisions of law or of its rules, and if such public officer or employee for a period of ten days after service on him or

her of the department's order shall neglect or refuse to comply therewith, the department of revenue may apply to a judge of the superior court or court commissioner of the county in which said public officer or employee holds office for an order returnable within five days from the date thereof to compel such public officer or employee to comply with such provisions of law or of the department's order, or to show cause why he or she should not be compelled so to do, and any order issued by the judge pursuant thereto shall be final. The remedy herein provided shall be cumulative and shall not exclude the department of revenue from exercising any power or rights otherwise granted.

Sec. 343. RCW 84.08.140 and 1994 c 301 s 19 are each amended to read as follows:

Any taxpayer feeling aggrieved by the levy or levies of any taxing district except levies authorized by a vote of the voters of the district may appeal therefrom to the department of revenue as hereinafter provided. Such taxpayer, upon the execution of a bond, with two or more sufficient sureties to be approved by the county auditor, payable to the state of Washington, in the penal sum of two hundred dollars and conditioned that if the petitioner shall fail in his or her appeal for a reduction of said levy or levies the taxpayer will pay the taxable costs of the hearings hereinafter provided, not exceeding the amount of such bond, may file a written complaint with the county auditor wherein such taxing district is located not later than ten days after the making and entering of such levy or levies, setting forth in such form and detail as the department of revenue shall by general rule prescribe, the taxpayer's objections to such levy or levies. Upon the filing of such complaint, the county auditor shall immediately transmit a certified copy thereof, together with a copy of the budget or estimates of such taxing district as finally adopted, including estimated revenues and such other information as the department of revenue shall by rule require, to the department of revenue. The department of revenue shall fix a date for a hearing on said complaint at the earliest convenient time after receipt of said record, which hearing shall be held in the county in which said taxing district is located, and notice of such hearing shall be given to the officials of such taxing district, charged with determining the amount of its levies, and to the taxpayer on said complaint by registered mail at least five days prior to the date of said hearing. At such hearings all interested parties may be heard and the department of revenue shall receive all competent evidence. After such hearing, the department of revenue shall either affirm or decrease the levy or levies complained of, in accordance with the evidence, and shall thereupon certify its action with respect thereto to the county auditor, who, in turn, shall certify it to the taxing district or districts affected, and the action of the department of revenue with respect to such levy or levies shall be final and conclusive.

Sec. 344. RCW 84.08.190 and 1975 1st ex.s. c 278 s 158 are each amended to read as follows:

For the purpose of instruction on the subject of taxation, the county assessors of the state shall meet with the department of revenue at the capital of the state, or at such place within the state as they may determine at their previous meeting, on the second Monday of October of each year or on such other date as may be fixed by the department of revenue. Each assessor shall be paid by the

county of his or her residence his or her actual expenses in attending such meeting, upon presentation to the county auditor of proper vouchers.

Sec. 345. RCW 84.09.040 and 1961 c 15 s 84.09.040 are each amended to read as follows:

Every county auditor, county assessor, and county treasurer who in any case refuses or knowingly neglects to perform any duty enjoined on him or her by this title, or who consents to or connives at any evasion of its provisions whereby any proceeding herein provided for is prevented or hindered, or whereby any property required to be listed for taxation is unlawfully exempted, or the valuation thereof is entered on the tax roll at less than its true taxable value, shall, for every such neglect, refusal, consent, or connivance, forfeit and pay to the state not less than two hundred nor more than one thousand dollars, at the discretion of the court, to be recovered before any court of competent jurisdiction upon the complaint of any citizen who is a taxpayer; and the prosecuting attorney shall prosecute such suit to judgment and execution.

Sec. 346. RCW 84.12.240 and 1975 1st ex.s. c 278 s 162 are each amended to read as follows:

The department of revenue shall have access to all books, papers, documents, statements, and accounts on file or of record in any of the departments of the state; and it shall have the power to issue subpoenas, signed by the director of the department or any duly authorized employee and served in a like manner as a subpoena issued from courts of record, to compel witnesses to appear and give evidence and to produce books and papers. The director of the department or any employee officially designated by the department is authorized to administer oaths to witnesses. The attendance of any witness may be compelled by attachment issued out of any superior court upon application to said court by the director or any duly authorized employee of the department, upon a proper showing that such witness has been duly served with a subpoena and has refused to appear before the said department. In case of the refusal of a witness to produce books, papers, documents, or accounts, or to give evidence on matters material to the hearing, the department may institute proceedings in the proper superior court to compel such witness to testify or to produce such books or papers, and to punish him or her for such failure or refusal. All process issued by the department shall be served by the sheriff of the proper county or by a duly authorized agent of the department and such service, if made by the sheriff, shall be certified by him or her to the department of revenue without any compensation therefor. Persons appearing before the department in obedience to a subpoena shall receive the same compensation as witnesses in the superior court. The records, books, accounts, and papers of each company shall be subject to visitation, investigation, or examination by the department, or any employee thereof officially designated by the department. All real and/or personal property of any company shall be subject to visitation, investigation, examination, and/or listing at any and all times by the department, or any person officially designated by the director.

Sec. 347. RCW 84.16.032 and 1975 1st ex.s. c 278 s 176 are each amended to read as follows:

The department of revenue shall have access to all books, papers, documents, statements, and accounts on file or of record in any of the

departments of the state; and shall have the power, by summons signed by director and served in a like manner as a subpoena issued from courts of record, to compel witnesses to appear and give evidence and to produce books and papers. The director or any employee officially designated by the director is authorized to administer oaths to witnesses. The attendance of any witness may be compelled by attachment issued out of any superior court upon application to said court by the department, upon a proper showing that such witness has been duly served with a summons and has refused to appear before the said department. In case of the refusal of a witness to produce books, papers, documents, or accounts or to give evidence on matters material to the hearing, the department may institute proceedings in the proper superior court to compel such witness to testify, or to produce such books or papers and to punish him or her for the refusal. All summons and process issued by the department shall be served by the sheriff of the proper county and such service certified by him or her to the department of revenue without any compensation therefor. Persons appearing before the department in obedience to a summons, shall, in the discretion of the department, receive the same compensation as witnesses in the superior court. The records, books, accounts, and papers of each company shall be subject to visitation, investigation, or examination by the department, or any employee thereof officially designated by the director. All real and/or personal property of any company shall be subject to visitation, investigation, examination, and/or listing at any and all times by the department, or any person employed by the department.

Sec. 348. RCW 84.36.300 and 1973 c 149 s 2 are each amended to read as follows:

There shall be exempt from taxation a portion of each separately assessed stock of merchandise, as that word is defined in this section, owned or held by any taxpayer on the first day of January of any year computed by first multiplying the total amount of that stock of such merchandise, as determined in accordance with RCW 84.40.020, by a percentage determined by dividing the amount of such merchandise brought into this state by the taxpayer during the preceding year for that stock by the total additions to that stock by the taxpayer during that year, and then multiplying the result of the latter computation by a percentage determined by dividing the total out-of-state shipments of such merchandise by the taxpayer during the preceding year from that stock (and regardless of whether or not any such shipments involved a sale of, or a transfer of title to, the merchandise within this state) by the total shipments of such merchandise by the taxpayer during the preceding year from that stock. As used in this section, the word "merchandise" means goods, wares, merchandise, or material which were not manufactured in this state by the taxpayer and which were acquired by him or her (in any other manner whatsoever, including manufacture by him or her outside of this state) for the purpose of sale or shipment in substantially the same form in which they were acquired by him or her within this state or were brought into this state by him or her. Breaking of packages or of bulk shipments, packaging, repackaging, labeling, or relabeling shall not be considered as a change in form within the meaning of this section. A taxpayer who has made no shipments of merchandise, either out-of-state or in-state, during the preceding year, may compute the percentage to be applied to the stock of merchandise on the basis of his or her experience from March 1st of the

preceding year to the last day of February of the current year, in lieu of computing the percentage on the basis of his or her experience during the preceding year. The rule of strict construction shall not apply to this section.

All rights, title, or interest in or to any aircraft parts, equipment, furnishings, or accessories (but not engines or major structural components) which are manufactured outside of the state of Washington and are owned by purchasers of the aircraft constructed, under construction or to be constructed in the state of Washington, and are shipped into the state of Washington for installation in or use in connection with the operation of such aircraft shall be exempt from taxation prior to and during construction of such aircraft and while held in this state for periods preliminary to and during the transportation of such aircraft from the state of Washington.

Sec. 349. RCW 84.36.320 and 1969 ex.s. c 124 s 3 are each amended to read as follows:

An owner or agent filing a claim under RCW 84.36.310 shall consent to the inspection of the books and records upon which the claim has been based, such inspection to be similar in manner to that provided by RCW 84.40.340, or if the owner or agent does not maintain records within this state, the consent shall apply to the records of a warehouse, person, or agent having custody of the inventory to which the claim applies. Consent to the inspection of the records shall be executed as a part of the claim. The owner, his or her agent, or other person having custody of the inventory referred to herein shall retain within this state, for a period of at least two years from the date of the claim, the records referred to above. If adequate records are not made available to the assessor within the county where the claim is made, then the exemption shall be denied.

Sec. 350. RCW 84.36.400 and 1972 ex.s. c 125 s 3 are each amended to read as follows:

Any physical improvement to single-family dwellings upon real property shall be exempt from taxation for the three assessment years subsequent to the completion of the improvement to the extent that the improvement represents thirty percent or less of the value of the original structure. A taxpayer desiring to obtain the exemption granted by this section must file notice of his or her intention to construct the improvement prior to the improvement being made on forms prescribed by the department of revenue and furnished to the taxpayer by the county assessor: PROVIDED, That this exemption cannot be claimed more than once in a five-year period.

The department of revenue shall promulgate such rules and regulations as are necessary and convenient to properly administer the provisions of this section.

Sec. 351. RCW 84.36.813 and 1977 ex.s. c 209 s 3 are each amended to read as follows:

An exempt property owner shall notify the department of revenue of any change of use prior to each assessment year. Any other person believing that a change in the use of exempt property has occurred shall report same to the county assessor, who shall examine the property and if the use is not in compliance with chapter 84.36 RCW he or she shall report the information to the department with a recommendation that the exempt status be canceled. The final determination shall be made by the department.

Sec. 352. RCW 84.36.850 and 1989 c 378 s 13 are each amended to read as follows:

Any applicant aggrieved by the department of revenue's denial of an exemption application may petition the state board of tax appeals to review an application for either real or personal property tax exemption and the board shall consider any appeals to determine (1) if the property is entitled to an exemption, and (2) the amount or portion thereof.

A county assessor of the county in which the exempted property is located shall be empowered to appeal to the state board of tax appeals to review any real or personal property tax exemption approved by the department of revenue which he or she feels is not warranted.

Appeals from a department of revenue decision must be made within thirty days after the mailing of the approval or denial.

Sec. 353. RCW 84.38.040 and 2001 c 185 s 10 are each amended to read as follows:

(1) Each claimant electing to defer payment of special assessments and/or real property tax obligations under this chapter shall file with the county assessor, on forms prescribed by the department and supplied by the assessor, a written declaration thereof. The declaration to defer special assessments and/or real property taxes for any year shall be filed no later than thirty days before the tax or assessment is due or thirty days after receiving notice under RCW 84.64.050, whichever is later: PROVIDED, That for good cause shown, the department may waive this requirement.

(2) The declaration shall designate the property to which the deferral applies, and shall include a statement setting forth (a) a list of all members of the claimant's household, (b) the claimant's equity value in his or her residence, (c) facts establishing the eligibility for the deferral under the provisions of this chapter, and (d) any other relevant information required by the rules of the department. Each copy shall be signed by the claimant subject to the penalties as provided in chapter 9A.72 RCW for false swearing. The first declaration to defer filed in a county shall include proof of the claimant's age acceptable to the assessor.

(3) The county assessor shall determine if each claimant shall be granted a deferral for each year but the claimant shall have the right to appeal this determination to the county board of equalization, in accordance with the provisions of RCW 84.40.038, whose decision shall be final as to the deferral of that year.

Sec. 354. RCW 84.38.060 and 1975 1st ex.s. c 291 s 31 are each amended to read as follows:

If the claimant is unable to make his or her own declaration of deferral, it may be made by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant.

Sec. 355. RCW 84.38.080 and 1975 1st ex.s. c 291 s 33 are each amended to read as follows:

A person's right to defer special assessments and/or property tax obligations on his or her residence shall not be reduced by contract or agreement, from January 1, 1976 onward.

Sec. 356. RCW 84.38.090 and 1975 1st ex.s. c 291 s 34 are each amended to read as follows:

If any residence is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, said holder shall cosign the declaration of deferral either before a notary public or the county assessor or his or her deputy in the county where the real property is located.

Sec. 357. RCW 84.40.070 and 2003 c 302 s 3 are each amended to read as follows:

The president, secretary, or principal accounting officer or agent of any company or association, whether incorporated or unincorporated, except as otherwise provided for in this title, shall make out and deliver to the assessor a statement of its property, setting forth particularly (1) the name and location of the company or association; (2) the real property of the company or association, and where situated; and (3) the nature and value of its personal property. The real and personal property of such company or association shall be assessed the same as other real and personal property. In all cases of failure or refusal of any person, officer, company, or association to make such return or statement, it shall be the duty of the assessor to make such return or statement from the best information he or she can obtain.

Sec. 358. RCW 84.40.110 and 1961 c 15 s 84.40.110 are each amended to read as follows:

When the assessor shall be of opinion that the person listing property for himself or herself or for any other person, company, or corporation, has not made a full, fair, and complete list of such property, he or she may examine such person under oath in regard to the amount of the property he or she is required to list, and if such person shall refuse to answer under oath, and a full discovery make, the assessor may list the property of such person, or his or her principal, according to his or her best judgment and information.

Sec. 359. RCW 84.40.160 and 1997 c 135 s 1 are each amended to read as follows:

The assessor shall list all real property according to the largest legal subdivision as near as practicable. The assessor shall make out in the plat and description book in numerical order a complete list of all lands or lots subject to taxation, showing the names and owners, if to him or her known and if unknown, so stated; the number of acres and lots or parts of lots included in each description of property and the value per acre or lot: PROVIDED, That the assessor shall give to each tract of land where described by metes and bounds a number, to be designated as Tax No. . . . , which said number shall be placed on the tax rolls to indicate that certain piece of real property bearing such number, and described by metes and bounds in the plat and description book herein mentioned, and it shall not be necessary to enter a description by metes and bounds on the tax roll of the county, and the assessor's plat and description book shall be kept as a part of the tax collector's records: AND PROVIDED, FURTHER, That the board of county commissioners of any county may by order direct that the property be listed numerically according to lots and blocks or section, township and range, in the smallest platted or government subdivision, and when so listed the value of each block, lot or tract, the value of the

improvements thereon and the total value thereof, including improvements thereon, shall be extended after the description of each lot, block or tract, which last extension shall be in the column headed "Total value of each tract, lot or block of land assessed with improvements as returned by the assessor." In carrying the values of said property into the column representing the equalized value thereof, the county assessor shall include and carry over in one item the equalized valuation of all lots in one block, or land in one section, listed consecutively, which belong to any one person, firm, or corporation, and are situated within the same taxing district, and in the assessed value of which the county board of equalization has made no change. Where assessed valuations are changed, the equalized valuation must be extended and shown by item.

The assessor shall prepare and possess a complete set of maps drawn to indicate parcel configuration for lands in the county. The assessor shall continually update the maps to reflect transfers, conveyances, acquisitions, or any other transaction or event that changes the boundaries of any parcel and shall renumber the parcels or prepare new map pages for any portion of the maps to show combinations or divisions of parcels.

Sec. 360. RCW 84.40.185 and 1995 c 318 s 5 are each amended to read as follows:

Every individual, corporation, limited liability company, association, partnership, trust, or estate shall list all personal property in his or her or its ownership, possession, or control which is subject to taxation pursuant to the provisions of this title. Such listing shall be made and delivered in accordance with the provisions of this chapter.

Sec. 361. RCW 84.40.210 and 1961 c 168 s 1 are each amended to read as follows:

Every person who purchases, receives, or holds personal property of any description for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials with the view of making gain or profit by so doing shall be held to be a manufacturer, and he or she shall, when required to, make and deliver to the assessor a statement of the amount of his or her other personal property subject to taxes, also include in his or her statement the value of all articles purchased, received, or otherwise held for the purpose of being used in whole or in part in any process or processes of manufacturing, combining, rectifying, or refining. Every person owning a manufacturing establishment of any kind and every manufacturer shall list as part of his or her manufacturer's stock the value of all engines and machinery of every description used or designed to be used in any process of refining or manufacturing except such fixtures as have been considered as part of any parcel of real property, including all tools and implements of every kind, used or designed to be used for the first aforesaid purpose.

Sec. 362. RCW 84.40.220 and 1974 ex.s. c 83 s 1 are each amended to read as follows:

Whoever owns, or has in his or her possession or subject to his or her control, any goods, merchandise, grain, or produce of any kind, or other personal property within this state, with authority to sell the same, which has been purchased either in or out of this state, with a view to being sold at an advanced

price or profit, or which has been consigned to him or her from any place out of this state for the purpose of being sold at any place within the state, shall be held to be a merchant, and when he or she is by this title required to make out and to deliver to the assessor a statement of his or her other personal property, he or she shall state the value of such property pertaining to his or her business as a merchant. No consignee shall be required to list for taxation the value of any property the product of this state, nor the value of any property consigned to him or her from any other place for the sole purpose of being stored or forwarded, if he or she has no interest in such property nor any profit to be derived from its sale. The growing stock of (~~nurserymen~~) nursery dealers, which is owned by the original producer thereof or which has been held or possessed by the (~~nurserymen~~) nursery dealers for one hundred eighty days or more, shall, whether personal or real property, be considered the same as growing crops on cultivated lands: PROVIDED, That the (~~nurserymen~~) nursery dealers be licensed by the department of agriculture: PROVIDED FURTHER, That an original producer, within the meaning of this section, shall include a person who, beginning with seeds, cuttings, bulbs, corms, or any form of immature plants, grows such plants in the course of their development into either a marketable partially grown product or a marketable consumer product.

Sec. 363. RCW 84.40.240 and 1961 c 15 s 84.40.240 are each amended to read as follows:

The assessor of each county shall, on or before the first day of January of each year, obtain from the department of natural resources, and from the local land offices of the state, lists of public lands sold or contracted to be sold during the previous year in his or her county, and certify them for taxation, together with the various classes of state lands sold during the same year, and it shall be the duty of the department of natural resources to certify a list or lists of all public lands sold or contracted to be sold during the previous year, on application of the assessor of any county applying therefor.

Sec. 364. RCW 84.40.370 and 1984 c 220 s 15 are each amended to read as follows:

The assessor shall list the property and assess it with reference to its value on the date the property lost its exempt status unless such property has been previously listed and assessed. He or she shall extend the taxes on the tax roll using the rate of percent applicable as if the property had been assessed in the previous year.

Sec. 365. RCW 84.41.080 and 1975 1st ex.s. c 278 s 199 are each amended to read as follows:

Upon receiving a request from the county assessor, either upon his or her initiation or at the direction of the board of county commissioners, for special assistance in the county's revaluation program, the department of revenue may, before undertaking to render such special assistance, negotiate a contract with the board of county commissioners of the county concerned. Such contracts as are negotiated shall provide that the county will reimburse the state for fifty percent of the costs of such special assistance within three years of the date of expenditure of such costs. All such reimbursements shall be paid to the department of revenue for deposit to the state general fund. The department of

revenue shall keep complete records of such contracts, including costs incurred, payments received, and services performed thereunder.

Sec. 366. RCW 84.41.120 and 1975 1st ex.s. c 278 s 202 are each amended to read as follows:

Each county assessor shall keep such books and records as are required by the rules and regulations of the department of revenue and shall comply with any lawful order, rule, or regulation of the department of revenue.

Whenever it appears to the department of revenue that any assessor has failed to comply with any of the provisions of this chapter relating to his or her duties or the rules of the department of revenue made in pursuance thereof, the department of revenue, after a hearing on the facts, may issue an order directing such assessor to comply with such provisions of this chapter or rules of the department of revenue. Such order shall be mailed by registered mail to the assessor at the county court house. If, upon the expiration of fifteen days from the date such order is mailed, the assessor has not complied therewith or has not taken measures that will insure compliance within a reasonable time, the department of revenue may apply to a judge of the superior court or court commissioner of the county in which such assessor holds office, for an order returnable within five days from the date thereof to compel him or her to comply with such provisions of law or of the order of the department of revenue or to show cause why he or she should not be compelled so to do. Any order issued by the judge pursuant to such order to show cause shall be final. The remedy herein provided shall be cumulative and shall not exclude the department of revenue from exercising any powers or rights otherwise granted.

Sec. 367. RCW 84.44.080 and 1961 c 15 s 84.44.080 are each amended to read as follows:

The owner of personal property removing from one county to another between the first day of January and the first day of July shall be assessed in either in which he or she is first called upon by the assessor. The owner of personal property moving into this state from another state between the first day of January and the first day of July shall list the property owned by him or her on the first day of January of such year in the county in which he or she resides: PROVIDED, That if such person has been assessed and can make it appear to the assessor that he or she is held for the tax of the current year on the property in another state or county, he or she shall not be again assessed for such year.

Sec. 368. RCW 84.48.018 and 1970 ex.s. c 55 s 4 are each amended to read as follows:

The members of each board of equalization shall meet and choose a ((~~chairman~~)) chair. A majority of the board shall constitute a quorum.

Sec. 369. RCW 84.56.090 and 2007 c 295 s 6 are each amended to read as follows:

Whenever in the judgment of the assessor or the county treasurer personal property is being removed or is about to be removed without the limits of the state, or is being dissipated or about to be dissipated, or is being or about to be sold, disposed of, or removed from the county so as to jeopardize collection of taxes, the treasurer shall immediately prepare papers in distraint, which shall contain a description of the personal property, including mobile homes, manufactured homes, or park model trailers, being or about to be removed,

dissipated, sold, disposed of, or removed from the county so as to jeopardize collection of taxes, the amount of the tax, the amount of accrued interest at the rate provided by law from the date of delinquency, and the name of the owner or reputed owner, and he or she shall without demand or notice distrain sufficient goods and chattels belonging to the person charged with such taxes to pay the same with interest at the rate provided by law from the date of delinquency, together with all accruing costs, and shall advertise and sell said property as provided in RCW 84.56.070.

If said personal property is being removed or is about to be removed from the limits of the state, is being dissipated or about to be dissipated, or is being or about to be sold, disposed of, or removed from the county so as to jeopardize collection of taxes, at any time subsequent to the first day of January in any year, and prior to the levy of taxes thereon, the taxes upon such property so distrained shall be computed upon the rate of levy for state, county, and local purposes for the preceding year; and all taxes collected in advance of levy under this section and RCW 84.56.120, together with the name of the owner and a brief description of the property assessed shall be entered forthwith by the county treasurer upon the personal property tax rolls of such preceding year, and all collections thereon shall be considered and treated in all respects, and without recourse by either the owner or any taxing unit, as collections for such preceding year. Property on which taxes are thus collected shall thereupon become discharged from the lien of any taxes that may thereafter be levied in the year in which payment or collection is made.

Whenever property has been removed from the county wherein it has been assessed, on which the taxes have not been paid, then the county treasurer, or his or her deputy, shall have the same power to distrain and sell said property for the satisfaction of said taxes as he or she would have if said property were situated in the county in which the property was taxed, and in addition thereto said treasurer, or his or her deputy, in the distraint and sale of property for the payment of taxes, shall have the same powers as are now by law given to the sheriff in making levy and sale of property on execution.

Sec. 370. RCW 84.56.210 and 1961 c 15 s 84.56.210 are each amended to read as follows:

Whenever standing timber which has been assessed as real estate is severed from the land as part of which it was so assessed, it may be considered by the county assessor as personal property, and the county treasurer shall thereafter be entitled to pursue all of the rights and remedies provided by law for the collection of personal property taxes in the collection of taxes levied against such timber: PROVIDED, That whenever the county assessor elects to treat severed timber as personalty under the provisions of this section, he or she shall immediately give notice by mail to the person or persons charged with the tax of the fact of his or her election, and the amount of tax standing against the timber.

**Sec. 371. RCW 84.56.210 and 1961 c 15 s 84.56.210 are each amended to read as follows:*

Whenever standing timber which has been assessed as real estate is severed from the land as part of which it was so assessed, it may be considered by the county assessor as personal property, and the county treasurer shall thereafter be entitled to pursue all of the rights and remedies provided by law

for the collection of personal property taxes in the collection of taxes levied against such timber: PROVIDED, That whenever the county assessor elects to treat severed timber as personalty under the provisions of this section, he or she shall immediately give notice by mail to the person or persons charged with the tax of the fact of his or her election, and the amount of tax standing against the timber.

*Sec. 371 was vetoed. See message at end of chapter.

Sec. 372. RCW 84.56.270 and 1984 c 132 s 5 are each amended to read as follows:

The county treasurer of any county of the state of Washington, after he or she has first received the approval of the board of county commissioners of such county, through a resolution duly adopted, is hereby empowered to petition the superior court in or for his or her county to finally cancel and completely extinguish the lien of any delinquent personal property tax which appears on the tax rolls of his or her county, which is more than four years delinquent, which he or she attests to be beyond hope of collection, and the cancellation of which will not impair the obligation of any bond issue nor be precluded by any other legal impediment that might invalidate such cancellation. The superior court shall have jurisdiction to hear any such petition and to enter such order as it shall deem proper in the premises.

Sec. 373. RCW 84.56.320 and 1961 c 15 s 84.56.320 are each amended to read as follows:

When any tax on real property is paid by or collected of any occupant or tenant, or any other person, which, by agreement or otherwise, ought to have been paid by the owner, lessor, or other party in interest, such occupant, tenant, or other person may recover by action the amount which such owner, lessor, or party in interest ought to have paid, with interest thereon at the rate of ten percent per annum, or he or she may retain the same from any rent due or accruing from him or her to such owner or lessor for real property on which such tax is so paid; and the same shall, until paid, constitute a lien upon such real property.

Sec. 374. RCW 84.60.040 and 1961 c 15 s 84.60.040 are each amended to read as follows:

When it becomes necessary, in the opinion of the county treasurer, to charge the tax on personal property against real property, in order that such personal property tax may be collected, such county treasurer shall select for that purpose some particular tract or lots of real property owned by the person owing such personal property tax, and in his or her tax roll and certificate of delinquency shall designate the particular tract or lots of real property against which such personal property tax is charged, and such real property shall be chargeable therewith.

Sec. 375. RCW 84.64.040 and 1961 c 15 s 84.64.040 are each amended to read as follows:

The county prosecuting attorney shall furnish to holders of certificates of delinquency, at the expense of the county, forms of applications for judgment and forms of notice and summons when the same are required, and shall prosecute to final judgment all actions brought by holders of certificates under the provisions of this chapter for the foreclosure of tax liens, when requested so

to do by the holder of any certificate of delinquency: PROVIDED, Said holder has duly paid to the clerk of the court the sum of two dollars for each action brought as per RCW 84.64.120: PROVIDED, FURTHER, That nothing herein shall be construed to prevent said holder from employing other and additional counsel, or prosecuting said action independent of and without assistance from the prosecuting attorney, if he or she so desires, but in such cases, no other and further costs or charge whatever shall be allowed than the costs provided in this section and RCW 84.64.120: AND PROVIDED, ALSO, That in no event shall the county prosecuting attorney collect any fee for the services herein enumerated.

Sec. 376. RCW 84.64.130 and 1961 c 15 s 84.64.130 are each amended to read as follows:

The books and records belonging to the office of county treasurer, certified by said treasurer, shall be deemed prima facie evidence to prove the issuance of any certificate, the sale of any land or lot for taxes, the redemption of the same or payment of taxes thereon. The county treasurer shall, at the expiration of his or her term of office, pay over to his or her successor in office all moneys in his or her hands received for redemption from sale for taxes on real property.

Sec. 377. RCW 84.64.180 and 1961 c 15 s 84.64.180 are each amended to read as follows:

Deeds executed by the county treasurer, as aforesaid, shall be prima facie evidence in all controversies and suits in relation to the right of the purchaser, his or her heirs and assigns, to the real property thereby conveyed of the following facts: First, that the real property conveyed was subject to taxation at the time the same was assessed, and had been listed and assessed in the time and manner required by law; second, that the taxes were not paid at any time before the issuance of deed; third, that the real property conveyed had not been redeemed from the sale at the date of the deed; fourth, that the real property was sold for taxes, interest, and costs, as stated in the deed; fifth, that the grantee in the deed was the purchaser, or assignee of the purchaser; sixth, that the sale was conducted in the manner required by law. And any judgment for the deed to real property sold for delinquent taxes rendered after January 9, 1926, except as otherwise provided in this section, shall estop all parties from raising any objections thereto, or to a tax title based thereon, which existed at or before the rendition of such judgment, and could have been presented as a defense to the application for such judgment in the court wherein the same was rendered, and as to all such questions the judgment itself shall be conclusive evidence of its regularity and validity in all collateral proceedings, except in cases where the tax has been paid, or the real property was not liable to the tax.

Sec. 378. RCW 84.68.110 and 1961 c 15 s 84.68.110 are each amended to read as follows:

Whenever a taxpayer believes or has reason to believe that, through error in description, double assessments, or manifest errors in assessment which do not involve a revaluation of the property, he or she has been erroneously assessed or that a tax has been incorrectly extended against him or her upon the tax rolls, and the tax based upon such erroneous assessment or incorrect extension has been paid, such taxpayer may initiate a proceeding for the cancellation or reduction of the assessment of his or her property and the tax based thereon or for correction

of the error in extending the tax on the tax rolls, and for the refund of the claimed erroneous tax or excessive portion thereof, by filing a petition therefor with the county assessor of the county in which the property is or was located or taxed, which petition shall legally describe the property, show the assessed valuation and tax placed against the property for the year or years in question and the taxpayer's reasons for believing that there was an error in the assessment within the meaning of RCW 84.68.110 through 84.68.150, or in extending the tax upon the tax rolls and set forth the sum to which the taxpayer desires to have the assessment reduced or the extended tax corrected.

Sec. 379. RCW 84.68.120 and 1975 1st ex.s. c 278 s 208 are each amended to read as follows:

Upon the filing of the petition with the county assessor that officer shall proceed forthwith to conduct such investigation as may be necessary to ascertain and determine whether or not the assessment in question was erroneous or whether or not the tax was incorrectly extended upon the tax rolls and if he or she finds there is probable cause to believe that the property was erroneously assessed, and that such erroneous assessment was due to an error in description, double assessment, or manifest error in assessment which does not involve a revaluation of the property, or that the tax was incorrectly extended upon the tax rolls, he or she shall endorse his or her findings upon the petition, and thereupon within ten days after the filing of the petition by the taxpayer forward the same to the county treasurer. If the assessor's findings be in favor of cancellation or reduction or correction he or she shall include therein a statement of the amount to which he or she recommends that the assessment and tax be reduced. It shall be the duty of the county treasurer, upon whom a petition with endorsed findings is served, as in RCW 84.68.110 through 84.68.150 provided, to endorse thereon a statement whether or not the tax against which complaint is made has in fact been paid and, if paid, the amount thereof, whereupon the county treasurer shall immediately transmit the petition to the prosecuting attorney and the prosecuting attorney shall make such investigation as he or she deems necessary and, within ten days after receipt of the petition and findings by him or her, transmit the same to the state department of revenue with his or her recommendation in respect to the granting or denial of the petition.

Sec. 380. RCW 84.68.150 and 1961 c 15 s 84.68.150 are each amended to read as follows:

No petition for cancellation or reduction of assessment or correction of tax rolls and the refund of taxes based thereon under RCW 84.68.110 through 84.68.150 shall be considered unless filed within three years after the year in which the tax became payable or purported to become payable. The maximum refund under the authority of RCW 84.68.110 through 84.68.150 for each year involved in the taxpayer's petition shall be two hundred dollars. Should the amount of excess tax for any such year be in excess of two hundred dollars, a refund of two hundred dollars shall be allowed under RCW 84.68.110 through 84.68.150, without prejudice to the right of the taxpayer to proceed as may be otherwise provided by law to recover the balance of the excess tax paid by him or her.

Sec. 381. RCW 84.69.090 and 1961 c 15 s 84.69.090 are each amended to read as follows:

The payment of refunds shall be made payable, at the election of the appropriate treasurer, to the taxpayer, his or her guardian, executor, or administrator or the owner of record of the property taxed, his or her guardian, executor, or administrator.

Sec. 382. RCW 85.05.076 and 1915 c 153 s 7 are each amended to read as follows:

Any person deeming himself or herself aggrieved by the assessment for benefits made against any lot or parcel of land owned by him or her, may appeal therefrom to the superior court for the county in which the diking district is situated; such appeal shall be taken within the time and substantially in the manner prescribed by the laws of this state for appeals from justices' courts and all notices of appeal shall be filed with the said board, and the board of diking commissioners shall at the appellant's expense certify to the superior court so much of the record as appellant may request, and the hearing in said superior court shall be de novo, and the superior court shall have power and authority to reverse or modify the determination of the commissioners and to certify the result of its determination to the county auditor and shall have full power and authority to do anything in the premises necessary to adjust the assessment upon the lots or parcels of land involved in the appeal in accordance with the benefits.

Sec. 383. RCW 85.05.100 and 1895 c 117 s 10 are each amended to read as follows:

In the preparation of the facts and data to be inserted in said petition and filed therewith for the purpose of presenting the matter to the said superior court, the board of commissioners of said diking district may employ one or more good and competent surveyors and (~~draughtsmen~~) drafters to assist them in compiling data required to be presented to the court with said petition as hereinbefore provided, and such legal assistance as may be necessary, with full power to bind said district for the compensation of such assistants or employees employed by them, and such services shall be taxed as costs in the suit.

Sec. 384. RCW 85.05.120 and 1895 c 117 s 12 are each amended to read as follows:

Any or all of said defendants may appear jointly or separately, and admit or deny the allegations of said petition, and plead any affirmative matter in defense thereof, at the time and place appointed for hearing said petition, or to which the same may have been adjourned. If the court or judge thereof shall have satisfactory proof that all of the defendants in said action have been duly served with said summons, as above provided, and shall be further satisfied by competent proof that said improvement is practicable, and conducive to the public health, welfare, and convenience, and will increase the value of said lands for the purpose of public revenue, and that the contemplated use for which the land, real estate, premises, or other property sought to be appropriated is really a public use, and that the land, real estate, premises, or other property sought to be appropriated are required and necessary for the establishment of said improvement, the court or judge thereof shall cause a jury of twelve qualified persons to be impaneled to assess the damages and benefits as herein provided, if in attendance upon his or her court; and if not, he or she may, if satisfied that the public interests require the immediate construction of said improvement, direct the sheriff of his or her county to summon from the citizens of the county in

which said petition is filed as many qualified persons as may be necessary in order to form a jury of twelve persons, unless the parties to the proceedings consent to a less number, such number to be not less than three, and such consent shall be entered by the clerk in the minutes of the trial. If necessary to complete the jury in any case, the sheriff, under direction of the court or judge thereof, shall summon as many qualified persons as may be required to complete the jury from the citizens of the county in which the petition is filed. In case a special jury is summoned, the cost thereof shall be taxed as part of the costs in the proceeding, and paid by the district seeking to appropriate said land, the same as other costs in the case; and no person shall be competent as a juror who is a resident of, or landowner in, the district seeking to appropriate said land. The jurors at such trial shall make in each case a separate assessment of damages which shall result to any person, corporation or company, or to the state, by reason of the appropriation and use of such land, real estate, premises, or other property for said improvement, and shall ascertain, determine, and award the amount of damages to be paid to said owner or owners, respectively, and to all tenants, incumbrancers, and others interested, for the taking or injuriously affecting such land, real estate, premises, or other property for the establishment of said improvement; and shall further find the maximum amount of benefits, per acre, to be derived by each of the landowners from the construction of said improvement. And upon a return of the verdict into court, the same shall be recorded as in other cases; whereupon a decree shall be entered in accordance with the verdict so rendered, setting forth all the facts found by the jury, and decreeing that said right-of-way be appropriated, and directing the commissioners of said diking district to draw their warrant on the county treasurer for the amount awarded by the jury to each person, for damages sustained by reason of the establishment of said improvement, payable out of the funds of said diking district.

Sec. 385. RCW 85.05.130 and 1971 c 81 s 157 are each amended to read as follows:

If at any time it shall appear to the board of diking commissioners that any lands within or without said district as originally established are being benefited by the diking system of said district and that said lands are not being assessed for the benefits received, or that any lands within said district are being assessed out of or not in proportion to the benefits which said lands are receiving from the maintenance of the diking system of said district, and said board of diking commissioners shall determine that certain lands, either within or without the boundaries of the district as originally established, should be assessed for the purpose of raising funds for the future maintenance of the diking system of the district, or that the assessments on land already assessed should be equalized by diminishing or increasing the same so that said lands shall be assessed in proportion to the benefits received, said commissioners shall file a petition in the superior court in the original cause, setting forth the facts, describing the lands not previously assessed and the lands the assessments on which should be equalized, stating the estimated amount of benefits per acre being received by each tract of land respectively, giving the name of the owner or reputed owner of each such tract of land, and praying that such original cause be opened for further proceedings for the purpose of subjecting new lands to assessment or equalizing the assessments upon lands already assessed, or both.

Upon the filing of such petition, summons shall issue thereon and be served on the owners of all lands affected, in the same manner as summons is issued and served in original proceedings, as near as may be, and if such new lands lie within the boundaries of any other diking district, said summons shall also be served upon the commissioners of such other diking district.

In case any of the new lands sought to be assessed in said proceeding lie within the boundaries of any other diking district, and the diking commissioners of such other district believe that the maintenance of the dike or dikes of such other district is benefiting lands within the district instituting the proceedings, said diking commissioners of such other districts shall intervene in such proceedings by petition, setting forth the facts, describing the lands in the district instituting the proceeding which they believe are being benefited by the maintenance of the diking system of their district, and praying that the benefits to such lands may be determined and such lands subjected to assessment for the further maintenance of the diking system of their district, to the end that all questions of benefits to lands in the respective districts may be settled and determined in one proceeding, and such petitioners in intervention shall cause summons to be issued upon such petition in intervention and served upon the commissioners of the diking district instituting the proceeding and upon the owners of all lands sought to be affected by such petition in intervention.

In case the owner of any such new lands sought to be assessed in said proceedings shall be maintaining a private dike against salt or freshwater for the benefit of said lands, and shall believe that the maintenance of such private dike is benefiting any lands within or without the district instituting the proceedings, or in case any such new lands sought to be assessed are included within the boundaries of some other diking district and are being assessed for the maintenance of the dikes of such other district, and the owner of such lands believes that the maintenance of the dike or dikes of such other district is benefiting lands included within the district instituting said proceedings, such owner or owners may by answer and cross-petition set forth the facts and pray that at the hearing upon said petition and cross-petition the benefits accruing from the maintenance of the respective dikes may be considered, to the end that a fair and equitable adjustment of the benefits being received by any lands from the maintenance of the various dikes benefiting the same, may be determined for the purpose of fixing the assessments for the future maintenance of such dikes, and may interplead in said proceeding such other diking district in which his or her lands sought to be assessed in said proceeding are being assessed for the maintenance of the dike or dikes of such other district.

No answer to any petition or petition in intervention shall be required, unless the party served with summons desires to offset benefits or to ask other affirmative relief, and no default judgment shall be taken for failure to answer any petition or petition in intervention, but the petitioners or petitioners in intervention shall be required to establish the facts alleged by competent evidence.

Upon the issues being made up, or upon the lapse of time within which the parties served are required to appear by any summons, the court shall impanel a jury to hear and determine the matters in issue, and the jury shall determine and assess the benefits, if any, which the respective tracts of land are receiving or will receive from the maintenance of the dike or dikes to be maintained, taking

into consideration any and all matters relating to the benefits, if any, received or to be received from any dike, structure, or improvement, and to credit, or charge, as the case may be, to each tract so situated as to affect any other tract or tracts, or having improvements or structures thereon or easements granted in connection therewith affecting any other tract or tracts included in such proceedings and shall specify in their verdict the respective amount of benefits per acre, if any, assessed to each particular tract of land, by legal subdivisions. Upon the return of the verdict of the jury, the court shall enter its judgment in accordance therewith, as supplemental to the original decree, or in case a petition in intervention be filed by the diking commissioners of some other district than that instituting the proceeding, such judgment to be supplemental to all such original decrees, and thereafter, all assessments and levies for the future maintenance of any dike or dikes described in said judgment shall be based upon the respective benefits determined and assessed against the respective tracts of land as specified in said judgment. Every person or corporation feeling himself or herself or itself aggrieved by any such judgment may appeal to the supreme court or the court of appeals within thirty days after the entry thereof, and such appeal shall bring before the supreme court or the court of appeals the propriety and justness of the verdicts of the jury in respect to the parties to the appeal. No bonds shall be allowed on such appeals. Nothing in this section contained shall be construed as affecting the right of diking districts to consolidation in any manner provided by law.

Sec. 386. RCW 85.05.150 and 1895 c 117 s 15 are each amended to read as follows:

Any person or corporation claiming to be entitled to any money ordered paid by the court, as provided in this act, may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he or she is entitled to the same, the court shall make an order directing the payment to such claimant of the portion of such money as he or she or it may be found entitled to; but if, upon application, the court or judge thereof shall decide that the title to the land, real estate, or premises specified in the application of such claimant is in such condition as to require that an action be commenced to determine the title of claimants thereto, it shall refuse such order until such action is commenced and the conflicting claims to such land, real estate, or premises be determined according to law.

Sec. 387. RCW 85.05.160 and 1895 c 117 s 16 are each amended to read as follows:

Upon the entry of the judgment upon the verdict of the jury, the clerk of said court shall immediately prepare a transcript, which shall contain a list of the names of all the persons and corporations benefited by said improvement and the amount of benefit derived by each, respectively, and shall duly certify the same, together with a list of the lands benefited by said improvement belonging to each person or corporation, and shall file the same with the auditor of the county, who shall immediately enter the same upon the tax rolls of his or her office, as provided by law for the entry of other taxes, against the land of each of the said persons named in said list, together with the amounts thereof, and the same shall be subject to the same interest and penalties in case of delinquency as in case of general taxes, and shall be collected in the same manner as other taxes and

subject to the same right of redemption and the lands sold for the collection of said taxes shall be subject to the same right of redemption as in the sale of lands for general taxes: PROVIDED, That said assessment shall not become due and payable except at such time or times and in such amount as may be designated by the board of commissioners of said dike district, which designation shall be made to the county auditor by said board of commissioners of said diking district, by serving a written notice upon the county auditor designating the time and the amount of the assessment, said assessment to be in proportion to benefits, to become due and payable, which amount shall fall due at the time of the falling due of general taxes, and the amount so designated shall be added by the auditor to the general taxes of said person, persons, or corporations, according to said notice, upon the assessment rolls in his or her said office, and collected therewith: AND PROVIDED FURTHER, That no one call for assessments by said commissioners shall be in an amount to exceed twenty-five percent of the actual amount necessary to pay the costs of the proceedings, and the establishment of said district and system of dikes and the cost of construction of said work.

Sec. 388. RCW 85.05.180 and 1895 c 117 s 18 are each amended to read as follows:

After the filing of said certificate said commissioners of such diking district shall proceed at once in the construction of said improvements, and in carrying on said construction or any extension thereof they shall have full charge and management thereof, and shall have the power to employ such assistance as they may deem necessary, and purchase all material that may be necessary in the construction and carrying on of the work of said improvement, and shall have power to let the whole or any portion of said work to any responsible contractor, and shall in such case enter into all necessary agreements with such contractor that may be necessary in the premises: PROVIDED, That in case the whole or any portion of said improvement is let to any contractor, said commissioners shall require such contractor to give a bond in double the amount of the contract price of the whole or of such portion of said work covered by such contract, with two or more good and sufficient sureties to be approved by the board of commissioners of said diking district and running to said district as obligee therein, conditioned for the faithful and accurate performance of said contract by said contractor, his or her executors, administrators, or assigns, according to the terms and conditions of said agreement, and shall cause said contractor to enter into a further and additional bond in the same amount, with two or more good and sufficient sureties to be approved by said board of commissioners of said diking district in the name of said district as obligee therein, conditioned that said contractor, his or her executors, administrators, or assigns, or subcontractor, his or her executors, administrators, or assigns, shall perform the whole or any portion of said work under contract of said original contractor; shall pay or cause to be paid all just claims of all persons performing labor or rendering services in the construction of said work, or furnishing materials, merchandise, or provisions of any kind or character used by said contractor or subcontractor, or any employee thereof in the construction of said improvement: PROVIDED FURTHER, That no sureties on said last mentioned bond shall be liable thereon unless the persons or corporations performing said labor and furnishing said materials, goods, wares, merchandise, and provisions, shall, within ninety days

after the completion of such improvement, file their claim, duly verified, that the amount is just and due and remains unpaid, with the commissioners of said diking district.

Sec. 389. RCW 85.06.100 and 1895 c 115 s 10 are each amended to read as follows:

In the preparation of the facts and data to be inserted in said petition and filed therewith for the purpose of presenting the matter to the superior court, the board of commissioners of said drainage district may employ one or more good and competent surveyors and ((draughtsmen)) drafters to assist them in compiling data required to be presented to the court with said petition, as hereinbefore provided, and such legal assistance as may be necessary, with full power to bind said district for the compensation of such assistants or employees employed by them, and such services shall be taxed as costs in the suit.

Sec. 390. RCW 85.06.120 and 1909 c 143 s 2 are each amended to read as follows:

Any or all of said defendants may appear jointly or separately and admit or deny the allegations of said petition and plead any affirmative matter in defense thereof at the time and place appointed for hearing said petition, or to which the same may have been adjourned. If the court or judge thereof shall have satisfactory proof that all of the defendants in said action have been duly served with said summons, as above provided, and shall be further satisfied by competent proof that said improvement is practicable and conducive to the public health, welfare, and convenience, and will increase the value of said lands for the purpose of public revenue, and that the contemplated use for which the land, real estate, premises, or other property sought to be appropriated is really a public use, and that the land, real estate, premises, or other property sought to be appropriated are required and necessary for the establishment of said improvement, and that said improvement has a good and sufficient outlet, the court or judge thereof shall cause a jury of twelve qualified persons to be impaneled to assess the damages and benefits, as herein provided, if in attendance upon his or her court; and if not he or she may, if satisfied that the public interests require the immediate construction of said improvement, direct the sheriff of his or her county to summons from the citizens of the county in which petition is filed as many qualified persons as may be necessary in order to form a jury of twelve persons, unless the parties to the proceedings consent to a less number, such number to be not less than three, and such consent shall be entered by the clerk in the minutes of the trial. If necessary, to complete the jury in any case, the sheriff, under the directions of the court or the judge thereof shall summon as many qualified persons as may be required to complete the jury from the citizens of the county in which the petition is filed. In case a special jury is summoned the cost thereof shall be taxed as part of the cost in the proceedings and paid by the district seeking to appropriate said land, the same as other costs in the case; and no person shall be competent as a juror who is a resident of, or landowner in, the district seeking to appropriate said land. The jurors at such trial shall make in each case a separate assessment of damages which shall result to any person, corporation, or company, or to the state, by reason of the appropriation and use of such land, real estate, premises, or other property for said improvements and shall ascertain, determine and award the amount of

damages to be paid to said owner or owners, respectively, and to all tenants, incumbancers, and others interested, for the taking or injuriously affecting such land, real estate, premises, or other property for the establishment of said improvement; and shall further find a maximum amount of benefits per acre to be derived by each of the landowners, and also the maximum amount of benefits resulting to any municipality, public highway, corporate road, or district from construction of said improvement. And upon a return of the verdict into court the same shall be reported as in other cases; whereupon, a decree shall be entered in accordance with the verdict so rendered setting forth all the facts found by the jury, and decreeing that said right-of-way be appropriated, and directing the commissioners of said drainage district to draw their warrant on the county treasurer for the amount awarded by the jury to each person for damages sustained by reason of the establishment of said improvement, payable out of the funds of said drainage district.

Sec. 391. RCW 85.06.130 and 1971 c 81 s 159 are each amended to read as follows:

If at any time it shall appear to the board of drainage commissioners that any lands within or without said district as originally established are being benefited by the drainage system of said district and that said lands are not being assessed for the benefits received, or if after the construction of any drainage system, it appears that lands embraced therein have in fact received or are receiving benefits different from those found in the original proceedings, and which could not reasonably have been foreseen before the final completion of the improvement, or that any lands within said district are being assessed out of or not in proportion to the benefits which said lands are receiving from the maintenance of the drainage system of said district, and said board of drainage commissioners shall determine that certain lands, either within or without the boundaries of the district as originally established, should be assessed for the purpose of raising funds for the future maintenance of the drainage system of the district, or that the assessments on land already assessed should be equalized by diminishing or increasing the same so that said lands shall be assessed in proportion to the benefits received, said commissioners shall file a petition in the superior court in the original cause, setting forth the facts, describing the lands not previously assessed and the lands the assessment on which should be equalized, stating the estimated amount of benefits per acre being received by each tract of land respectively, giving the name of the owner or reputed owner of each such tract of land and praying that such original cause be opened for further proceedings for the purpose of subjecting new lands to assessments or equalizing the assessments upon lands already assessed, or both. Upon the filing of such petition, summons shall issue thereon and be served on the owners of all lands affected, in the same manner as summons is issued and served in original proceedings, as near as may be, and if such new lands lie within the boundaries of any other drainage district, said summons shall also be served upon the commissioners of such other drainage district. In case any of the new lands sought to be assessed in said proceeding lie within the boundaries of any other drainage district, and the drainage commissioners of such other district believe that the maintenance of the drain or drains of such other district is benefiting lands within the district instituting the proceeding, said drainage commissioners of such other districts shall intervene in such proceedings by petition, setting

forth the facts, describing the lands in the district instituting the proceeding which they believe are being benefited by the maintenance of the drainage system of their district, and praying that the benefits to such lands may be determined and such lands subjected to assessment for the further maintenance of the drainage system of their district, to the end that all questions of benefits to lands in the respective districts may be settled and determined in one proceeding, and such petitioners in intervention shall cause summons to be issued upon such petition in intervention and served upon the commissioners of the drainage district instituting the proceeding and upon the owners of all lands sought to be affected by such petition in intervention. In case the owner of any such new lands sought to be assessed in said proceedings shall be maintaining a private drain against salt or freshwater for the benefit of said lands, and shall believe that the maintenance of such private drain is benefiting any lands within or without the district instituting the proceedings, or in case any such new lands sought to be assessed are included within the boundaries of some other drainage district and are being assessed for the maintenance of the drains of such other district, and the owner of such lands believes that the maintenance of the drain or drains of such other district is benefiting lands included within the district instituting said proceedings, such owner or owners may by answer and cross-petition set forth the facts and pray that at the hearing upon said petition and cross-petition the benefits accruing from the maintenance of the respective drains may be considered, to the end that a fair and equitable adjustment of the benefits being received by any lands from the maintenance of the various drains benefiting the same, may be determined for the purpose of fixing the assessments for the future maintenance of such drains, and may interplead in said proceeding such other drainage district in which his or her lands sought to be assessed in said proceeding are being assessed for the maintenance of the drain or drains of such other district. No answer to any petition or petition in intervention shall be required, unless the party served with summons desires to offset benefits or to ask other affirmative relief, and no default judgment shall be taken for failure to answer any petition or petition in intervention, but the petitioners or petitioners in intervention shall be required to establish the facts alleged by competent evidence. Upon the issues being made up, or upon the lapse of time within which the parties served are required to appear by any summons, the court shall impanel a jury to hear and determine the matters in issue, and the jury shall determine and assess the benefits, if any, which the respective tracts of land are receiving or will receive from the maintenance of the drain or drains to be maintained, taking into consideration any and all matters relating to the benefits, if any, received or to be received from any drain, structure or improvement, and to credit or charge, as the case may be, to each tract so situated as to affect any other tract or tracts, or having improvement or structures thereon or easements granted in connection therewith, affecting any other tract or tracts included in such proceedings, and shall specify in their verdict the respective amount of benefits per acre, if any, assessed to each particular tract of land, by legal subdivisions. Upon the return of the verdict of the jury, the court shall enter its judgment in accordance therewith, as supplemental to the original decree, or in case a petition in intervention be filed by the drainage commissioners of some other district than that instituting the proceeding, such judgment to be supplemental to all such original decrees, and thereafter, all assessments and

levies for the cost of construction or future maintenance of any drain or drains described in said judgment shall be based upon the respective benefits determined and assessed against the respective tracts of land as specified in said judgment. Every person or corporation feeling himself or herself or itself aggrieved by any such judgment may appeal to the supreme court or the court of appeals within thirty days after the entry thereof, and such appeal shall bring before the supreme court or the court of appeals the propriety and justness of the verdicts of the jury in respect to the parties to the appeal. No bonds shall be required on such appeals. Nothing in this section contained shall be construed as affecting the right of drainage districts to consolidation in any manner provided by law.

Sec. 392. RCW 85.06.150 and 1895 c 115 s 15 are each amended to read as follows:

Any person or corporation claiming to be entitled to any money ordered paid by the court, as provided in this chapter, may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he or she is entitled to the same, the court shall make an order directing the payment to such claimant of the portion of such money as he or she or it may be found entitled to; but if, upon application, the court or judge thereof shall decide that the title to the land, real estate, or premises specified in the application of such claimant is in such condition as to require that an action be commenced to determine the title of claimants thereto, it shall refuse such order until such action is commenced and the conflicting claims to such land, real estate, or premises be determined according to law.

Sec. 393. RCW 85.06.160 and 1907 c 242 s 1 are each amended to read as follows:

Upon the entry of the judgment upon the verdict of the jury, the clerk of said court shall immediately prepare a transcript, which shall contain a list of the names of all the persons and corporations benefited by said improvement and the amount of benefit derived by each, respectively, and shall duly certify the same, together with a list of the lands benefited by said improvement belonging to each person and corporation, and shall file the same with the auditor of the county, who shall immediately enter the same upon the tax rolls of his or her office, as provided by law for the entry of other taxes, against the land of each of the said persons named in said list, together with the amounts thereof, and the same shall be subject to the same interest and penalties in case of delinquency as in case of general taxes, and shall be collected in the same manner as other taxes and subject to the same right of redemption, and the lands sold for the collection of said taxes shall be subject to the same right of redemption as the sale of lands for general taxes: PROVIDED, That said assessments shall not become due and payable except at such time or times and in such amounts as may be designated by the board of commissioners of said drainage district, which designation shall be made to the county auditor by said board of commissioners of said drainage district, by serving written notice upon the county auditor designating the time and the amount of the assessment, said assessment to be in proportion to benefits to become due and payable, which amount shall fall due at the time of the falling due of general taxes, and the amount so designated shall be added by the auditor to the general taxes of said person, persons, or corporation, according to said

notice, upon the assessment rolls in his or her said office, and collected therewith; PROVIDED FURTHER, That no one call for assessments by said commissioners shall be in an amount to exceed twenty-five percent of the amount estimated by the board of commissioners to be necessary to pay the costs of the proceedings, and the establishment of said district and drainage system and the cost of construction of said work; PROVIDED FURTHER, That where the amount realized from the original assessment and tax shall not prove sufficient to complete the original plans and specifications of any drainage system, alterations, extensions, or changes therein, for which the said original assessment was made, the board of commissioners of said district shall make such further assessment as may be necessary to complete said system according to the original plans and specifications, which assessment shall be made and collected in the manner provided in this section for the original assessment.

Sec. 394. RCW 85.06.180 and 1895 c 115 s 18 are each amended to read as follows:

After the filing of said certificate said commissioners of such drainage district shall proceed at once in the construction of said improvement, and in carrying on said construction or any extensions thereof they shall have full charge and management thereof, and shall have the power to employ such assistance as they may deem necessary and purchase all material that may be necessary in the construction and carrying on of the work of said improvement, and shall have power to let the whole or any portion of said work to any responsible contractor, and shall in such case enter into all necessary agreements with such contractor that may be necessary in the premises: PROVIDED, That in case the whole or any portion of said improvement is let to any contractor said commissioners shall require said contractor to give a bond in double the amount of the contract price of the whole or of such portion of said work covered by said contract, with two or more sureties to be approved by the board of commissioners of said drainage district and running to said district as obligee therein, conditioned for the faithful and accurate performance of said contract by said contractor, his or her executors, administrators, or assigns, according to the terms and conditions of said agreement, and shall cause said contractor to enter into a further or additional bond in the same amount, with two or more good and sufficient sureties to be approved by said board of commissioners of said drainage district in the name of said district as obligee therein, conditioned that said contractor, his or her executors, administrators, or assigns, or subcontractor, his or her executors, administrators, or assigns, performing the whole or any portion of said work under contract of said original contractor, shall pay or cause to be paid all just claims for all persons performing labor or rendering services in the construction of said work, or furnishing materials, merchandise, or provisions of any kind or character used by said contractor or subcontractor, or any employee thereof in the construction of said improvement: PROVIDED FURTHER, That no sureties on said last mentioned bond shall be liable thereon unless the persons or corporation performing said labor and furnishing said materials, goods, wares, merchandise, and provisions, shall, within ninety days after the completion of said improvement, file their claim, duly verified; that the amount is just and due and remains unpaid, with the board of commissioners of said drainage district.

Sec. 395. RCW 85.06.210 and 1895 c 115 s 21 are each amended to read as follows:

Any person or corporation owning land within said district shall have a right to connect any private drains or ditches for the proper drainage of such land with said system, and in case any persons or corporations shall desire to drain such lands into said system and shall find it necessary, in order to do so, to procure the right-of-way over the land of another, or others, and if consent thereto cannot be procured from such person or persons, then such landowner may present in writing a request to the board of commissioners of said district, setting forth therein the necessity of being able to connect his or her private drainage with said system, and pray therein that said system be extended to such point as he or she may designate in said writing, and immediately thereon said board of commissioners shall cause a petition to be filed in the superior court, for and in the name of said drainage district, requesting in said petition that said system be extended as requested, setting forth therein the necessity thereof and praying that leave be granted by the board to extend the system in accordance with the prayer of said petition, and the proceedings in such case, upon the presentation of such petition and the hearing thereof, shall be, in all matters, the same as in the hearing and presentation of the original petition for the establishment of the original system of drainage in said district, as far as applicable. That the costs in such proceedings shall be paid from the assessment of benefits to be made on the lands of the person or persons benefited by such extension, and the assessment and compensation for the right-of-way, damages and benefits, and payment of damages and compensation, and the collection of the assessments for benefits, shall be the same as in the proceedings under the original petition, and the construction of the said extension shall be made under the same provisions as the construction of the original improvement; and all things that may be done or performed in connection therewith shall be, as near as may be applicable, in accordance with the provisions already set forth herein for the establishment and construction of said original improvement: PROVIDED, That such petitioner or petitioners shall, at the time of filing such petition by said drainage commissioners, enter into a good and sufficient bond to said drainage district in the full penal sum of five hundred dollars, with two or more sureties, to be approved by the court, conditioned for the payment of all costs in case the prayer of said petition should not be granted, which bond shall be filed in said cause.

Sec. 396. RCW 85.06.250 and 1985 c 396 s 42 are each amended to read as follows:

The board of commissioners of such district shall elect one of their number (~~(chairman)~~ chair) and shall either elect one of their number, or appoint a voter of the district, as secretary, who shall keep minutes of all the district's proceedings. The board of commissioners may issue warrants of such district in payment of all claims of indebtedness against such district, which shall be in form and substance the same as county warrants, or as near the same as may be practicable, and shall draw the legal rate of interest from the date of their presentation to the treasurer for payment, as hereinafter provided, and shall be signed by the (~~(chairman)~~ chair) and attested by the secretary of said board: PROVIDED, That no warrants shall be issued by said board of commissioners in payment of any indebtedness of such district for less than the face or par value.

Sec. 397. RCW 85.06.330 and 1986 c 278 s 30 are each amended to read as follows:

All warrants issued under the provisions of this chapter shall be presented by the owners thereof to the county treasurer, who shall indorse thereon the day of presentation for payment, with the additional indorsement thereon, in case of nonpayment, that they are not paid for want of funds; and no warrant shall draw interest under the provisions of this chapter until it is so presented and indorsed by the county treasurer. And it shall be the duty of such treasurer, from time to time, when he or she has sufficient funds in his or her hands for that purpose, to advertise in the newspaper doing the county printing for the presentation to him or her for payment of as many of the outstanding warrants as he or she may be able to pay: PROVIDED, That thirty days after the first publication of said notice of the treasurer calling in any of said outstanding warrants said warrants shall cease to bear interest, which shall be stated in the notice. Said notice shall be published two weeks consecutively, and said warrants shall be called in and paid in the order of their indorsement.

Sec. 398. RCW 85.06.550 and 1903 c 67 s 1 are each amended to read as follows:

When any drainage district has been or shall be established and created under the provisions of an act of the legislature of the state of Washington, entitled "An act to provide for the establishment and creation of drainage districts, and the construction and maintenance of a system of drainage, and to provide for the means of payment thereof, and declaring an emergency", approved March 20, 1895, and when the drainage commissioners of such district have employed surveyors or (~~draughtsmen~~) drafters, or legal assistance as provided in RCW 85.06.100, and have incurred expenses for the compensation of such surveyors, (~~draughtsmen~~) drafters, and legal assistance, and have issued to such surveyors, (~~draughtsmen~~) drafters, or persons rendering said legal assistance any warrants, orders, vouchers, or other evidence of indebtedness for said expenses so incurred, and when such warrants, orders, vouchers, or other evidences of indebtedness remain outstanding and unpaid, and when from any cause no further proceedings are had as provided for in said act approved March 20, 1895, within a reasonable time, it shall be the duty of the county commissioners of the county in which such drainage district is located to assess in accordance with the provisions of RCW 85.06.550 through 85.06.630, the lands constituting and embraced within such drainage district for the purpose of paying such outstanding warrants, orders, vouchers, or other evidences of indebtedness, together with interest thereon.

Sec. 399. RCW 85.06.560 and 1903 c 67 s 2 are each amended to read as follows:

The county auditor of any county in which such drainage district is located upon the written request of any holder or owner of any such warrant, order, voucher, or other evidence of indebtedness, mentioned in the preceding section, shall forthwith cause to be published in the newspaper doing the county printing, if any such there be, and if not, then in some newspaper of general circulation in the county, a notice directing any and all holders or owners of any such warrants, orders, vouchers, or other evidences of indebtedness, to present the same to him or her, at his or her office, for registration within ninety days from the date of the

first publication of such notice; and such notice shall be published once a week for six consecutive weeks. Said notice shall be directed to all holders and owners of warrants, orders, vouchers, or other evidences of indebtedness issued by the drainage commissioners of the particular district giving its name and number, and shall designate the character of the warrants, orders, vouchers, or other evidences of indebtedness, the registration of which is called for by said notice. Upon the presentation to him or her of such warrants, orders, vouchers, or other evidences of indebtedness, the county auditor shall register the same in a separate book to be kept for that purpose, showing the date of registration, the date of issue, the purpose of issue when the same is shown upon the face, the name of the person by whom presented, and the face value thereof. Any such warrants, orders, vouchers, or other evidences of indebtedness, not presented within the time prescribed in such notice, shall not share in the benefits of RCW 85.06.550 through 85.06.630, and no assessment or reassessment shall thereafter be made for the purpose of paying the same.

Sec. 400. RCW 85.06.570 and 1903 c 67 s 3 are each amended to read as follows:

At any time after the expiration of the time within which warrants, orders, vouchers, or other evidences of indebtedness, may be registered as provided in the preceding section, the holder or owner of any such registered warrant, order, voucher, or other evidence of indebtedness, may for himself or herself and in behalf of all other holders or owners of such registered warrants, orders, vouchers, or other evidences of indebtedness, file a petition in the superior court of the county in which such drainage district is located praying for an order directing the publication and posting of the notice hereinafter provided for, and for a hearing upon said petition, and for an order directing the board of county commissioners to assess the lands embraced within said drainage district for the purpose of paying such registered warrants, orders, vouchers, or other evidences of indebtedness and the costs of the proceedings provided for in RCW 85.06.550 through 85.06.630. Said petition shall set forth:

(1) That said drainage district was duly established and created, giving the time.

(2) The facts in connection with the expenses incurred by the drainage commissioners in the employment of surveyors, (~~draughtsmen~~) drafters, or legal assistance and the issuance of such registered warrants, orders, vouchers, or other evidences of indebtedness.

(3) The facts in connection with the compliance with the provisions of RCW 85.06.550 through 85.06.630.

(4) A list of such registered warrants, orders, vouchers, or other evidences of indebtedness showing the names of owners or holders, the amounts, the date of issuance, the purpose for which issued, when shown upon the face thereof, and the date of presentation for payment, respectively.

Sec. 401. RCW 85.06.600 and 1903 c 67 s 6 are each amended to read as follows:

At the time and place fixed in said order for the hearing of said petition, or at such time to which the court may continue said hearing, the court shall proceed to a hearing upon said petition and upon any objections or exceptions which have been filed thereto. And upon it appearing to the satisfaction of the

court from the proofs offered in support thereof that the allegations of said petition are true, the said court shall ascertain the total amount of said registered warrants, orders, vouchers, or other evidences of indebtedness with the accrued interest and the costs of said proceedings, and thereupon the said court shall enter an order directing the board of county commissioners to levy a tax upon all the real estate within said drainage district exclusive of improvements, taking as a basis the last equalized assessment of said real estate for state and county purposes, sufficient to pay said outstanding registered warrants, orders, vouchers, or other evidences of indebtedness with interest as aforesaid and the costs of said proceeding, and the cost of levying said tax, and further directing the county auditor to issue a warrant on the county treasurer to the petitioner for the costs advanced by him or her in such proceeding, which shall be paid in the same manner as the said registered warrants, orders, vouchers, or other evidences of indebtedness.

Sec. 402. RCW 85.06.630 and 1988 c 202 s 74 are each amended to read as follows:

From any final order entered by the said superior court as above provided for, any party to said proceeding feeling himself or herself aggrieved thereby may seek appellate review, as provided by the general appeal law of this state.

Sec. 403. RCW 85.06.750 and 1988 c 202 s 76 are each amended to read as follows:

Upon the return of the verdict of the jury as provided in the preceding section, if it shall appear to the court that the total benefits found by the jury to have accrued to the lands of the district is equal to or exceeds the actual cost of the improvement including the increased cost of completing the same, the court shall enter its judgment in accordance therewith, as supplemental to and in lieu of the original decree fixing the benefits to the respective tracts of land, and thereafter the assessment and levy for the original cost of the construction of the improvement, including the indebtedness incurred for completing the improvement together with interest at the legal rate on the warrants issued therefor, and all assessments and levies if any, for the future maintenance of the drainage system described in the judgment shall be based upon the respective benefits determined and assessed against the respective tracts of land as specified in the judgment. Every person or corporation feeling himself or herself or itself aggrieved by any such judgment may seek appellate review within thirty days after the entry thereof, and such review shall bring before the appellate court the propriety and justness of the verdict of the jury in respect to the parties to the proceeding.

Sec. 404. RCW 85.07.070 and 1983 c 167 s 190 are each amended to read as follows:

(1) Said bonds shall be numbered consecutively from one upwards and shall be in denominations of not less than one hundred dollars nor more than one thousand dollars each. They shall bear the date of issue, shall be made payable in not more than ten years from the date of their issue, and shall bear interest at a rate or rates as authorized by the board of commissioners, payable annually. The bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030. The bonds and any coupon shall be signed by the (~~chairman~~) chair of the board of commissioners of each district and shall be

attested by the secretary of said board. The seal, if any, of such district shall be affixed to each bond, but it need not be affixed to any coupon.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

Sec. 405. RCW 85.07.090 and 1935 c 103 s 4 are each amended to read as follows:

All outstanding warrants of such district so sought to be redeemed shall become due and payable immediately upon receipt by the county treasurer of the money from the sale of said bonds; and upon a call of such outstanding warrants or obligations issued by him or her, the same shall cease to draw interest at the end of thirty days after the date of the first publication of such call. The call shall be made by the treasurer by publishing notice thereof for two consecutive weeks in the county paper authorized to do the county printing. The notice shall designate the number of each warrant sought to be redeemed.

Sec. 406. RCW 85.07.120 and 1935 c 103 s 7 are each amended to read as follows:

It shall be the duty of the county treasurer of each county in which there may be a district issuing bonds under the provisions of RCW 85.07.060 through 85.07.120, whenever he or she has on hand one thousand dollars over and above interest requirements in the special fund for the payment of said bonds and interest, to advertise in the newspaper doing the county printing, for the presentation to him or her for payment of as many of the bonds issued under the provisions of RCW 85.07.060 through 85.07.120 as he or she may be able to pay with the funds in his or her hands. The bonds shall be redeemed and paid in their numerical order, beginning with bond No. 1 and continuing until all of said bonds are paid. The treasurer's call for presentation and redemption of such bonds shall state the number of the bond or bonds so called. Thirty days after the first publication of said notice of the treasurer calling any of said bonds by their numbers, such bonds shall cease to bear interest, and the notice of call shall so state. If any bond so called is not presented, the treasurer shall hold in said fund until presentation of such bond is made, the amount of money sufficient to redeem the same with interest thereon to the date interest was terminated by such call.

Sec. 407. RCW 85.07.140 and 1935 c 102 s 2 are each amended to read as follows:

If the court is satisfied that the status of said property has changed so that it is no longer susceptible to benefit from the improvement of such district and should be removed from the assessment roll thereof, and it be established that all benefits assessed against said lands up to the date of trial have been paid, such court may enter a decree striking such land from the assessment roll of said district, and it shall not be subject to future assessment for benefits or maintenance by such district, unless, thereafter, it is again brought into such districts by the proceedings provided by law to extend the district or include benefited property which is not assessed. Nothing herein shall prevent such property from being again brought into said district in the manner provided by law generally for the inclusion of benefited property, if it appear at a future date that said property will receive benefits from the improvement in such district. Upon entry of such decree of the court a certified copy thereof shall be filed in

the office of the auditor of such county wherein the property is situated, and upon receipt thereof, he or she shall correct the assessment roll of said district accordingly and strike the property therefrom.

Sec. 408. RCW 85.08.340 and 1917 c 130 s 29 are each amended to read as follows:

Whenever in the progress of the construction of the system of improvement it shall become necessary to construct a portion of such system across any public or other road or public utility, the board of supervisors, or in case the work is being done by contract the board of county commissioners, shall serve notice in writing upon the public officers, corporation, or person having charge of, or controlling or owning such road or public utility, as the case may be, of the present necessity of such crossing, giving the location, kind, dimensions, and requirement thereof, for the purpose of the system of improvement, and stating a reasonable time, to be fixed by the county engineer, within which plans for such crossing must be filed for approval in case the public officers, corporation, or person controlling or owning such road or public utility desire to construct such crossing. As soon as convenient, within the time fixed in the notice, the public officers, corporation, or person shall, if they desire to construct such crossing, prepare and submit to the county engineer for approval duplicate detailed plans and specifications for such crossing. Upon submission of such plans, the county engineer shall examine and may modify the same to meet the requirements of the system of improvement, and when such plans or modified plans are satisfactory to the county engineer, he or she shall approve the same and return one thereof to the public officers, corporation, or person submitting the same, and file the duplicate in his or her office, and shall notify such public officers, corporation, or person of the time within which said crossing must be constructed. Upon the return of such approved plans, the public officers, corporation, or person controlling such road or public utility shall, within the time fixed by the county engineer, construct such crossing in accordance with the approved plans, and shall thereafter maintain the same. In case such public officers, corporation, or person controlling or owning such road or public utility shall fail to file plans for such crossing within the time prescribed in the notice, the board of supervisors or of county commissioners, as the case may be, shall proceed with the construction of such crossing in such manner as will cause no unnecessary injury to or interference with such road or public utility. The cost of construction and maintenance of only such crossings or such portion of such cost as would not have been necessary but for the construction of the system of improvement shall be a proper charge against the improvement district, and only so much of such cost as the board of county commissioners shall deem reasonable shall be allowed as a charge against the district in the case of crossings constructed by others than the district. The amount of costs of construction allowed as a charge against the district by the board of county commissioners shall be credited on the assessments against the property on which the crossing is constructed, and any excess over such assessment shall be paid out of the funds of the district.

Sec. 409. RCW 85.08.360 and 1917 c 130 s 30 are each amended to read as follows:

When the improvement is fully completed and accepted by the county engineer, the clerk of the board shall compile and file with the board of county commissioners an itemized statement of the total cost of construction, including engineering and election expenses, the cost of publishing and posting notices, damages, and costs allowed or awarded for property taken or damaged, including compensation of attorneys, including the costs of crossings constructed by the district and the cost of crossings constructed by others and allowed by the board of county commissioners, and including the sum paid or to be paid to the United States, and the discount, if any, on the bonds and warrants sold and including all other costs and expenses, including fees, per diem, and necessary expenses of nonsalaried officers incurred in connection with the improvement, together with interest on such costs and expenses from the time when incurred at the rate of interest borne by the warrants issued for the cost of construction. There shall also be included in said statement, in case the county engineer is a salaried officer, a statement of the services performed by him or her in connection with said improvement at a per diem of five dollars per day and his or her necessary expenses, and a reasonable sum to be fixed by the board of county commissioners on account of the services rendered by the prosecuting attorney. Upon the filing of such statement of costs and expenses the board of county commissioners shall revise and correct the same if necessary and add thereto a reasonable sum which shall be not less than five percent nor more than ten percent of the total thereof in drainage improvement districts, and not less than ten percent nor more than fifteen percent of the total thereof in diking improvement districts, to cover possible errors in the statement or the apportionment hereinafter provided for, and the cost of such apportionment and other subsequent expenses, and interest on the costs of construction from the date of the statement until fifty days after the filing of the assessment roll with the treasurer; and unless the same have been previously appointed, shall appoint a board of appraisers consisting of the county engineer and two other competent persons, to apportion the grand total as contained in said statement as hereinafter provided. Each member of said board of appraisers shall take, subscribe, and file with the board of county commissioners an oath to faithfully and impartially perform his or her duties to the best of his or her ability in making said apportionment, and said board of appraisers shall proceed to carefully examine the system and the public and private property within the district and fairly, justly, and equitably apportion the grand total cost of the improvement against the property and the county or counties, cities, and towns within the district, in proportion to the benefits accruing thereto.

Sec. 410. RCW 85.08.400 and 1984 c 7 s 377 are each amended to read as follows:

Upon the filing of the schedule of apportionment, the county legislative authority shall fix the time and place for a hearing thereon, which time shall be not more than sixty days from the date of the filing of the schedule. Notice of the hearing shall be given in the manner provided for giving notice of a hearing in RCW 85.08.150. The notice shall fix the time and place of the hearing on the roll, and shall state that the schedule of apportionment showing the amount of the cost of the improvement apportioned to each county, city, town, and piece of property benefited by the improvement is on file in the office of the county legislative authority and is open to public inspection, and shall notify all persons

who may desire to object thereto that they may make their objections in writing and file them with the clerk of the county legislative authority at or before the date fixed for the hearing. The notice shall also state that at the time and place fixed and at such other times and places as the hearing may be continued to, the county legislative authority will sit as a board of equalization for the purpose of considering the schedule and at the hearing or hearings will also consider any objections made thereto, or any part thereof, and will correct, revise, raise, lower, change, or modify the schedule or any part thereof, or set aside the schedule and order that the apportionment be made de novo as to such body shall appear just and equitable, and that at the hearing the board will confirm the schedule as finally approved by them and will levy an assessment against the property described thereon for the amounts as fixed by them. The county legislative authority shall serve by mail, at least ten days before the hearing, upon the commissioner of public lands of the state of Washington a like notice, in duplicate, showing the amount of the cost of the improvements apportioned against all state, school, granted, or other lands owned by the state of Washington in the district. The county legislative authority shall serve a like notice upon the state secretary of transportation showing the amount apportioned against any state primary or secondary highways. Upon receipt of the notice the commissioner of public lands or the secretary of transportation, as the case may be, shall endorse thereon a statement either that he or she elects to accept or that he or she elects to contest the apportionment, and shall return the notice, so endorsed, to the county legislative authority. At or before the hearing any person interested may file with the clerk of the county legislative authority written objections to any item or items of the apportionment.

Sec. 411. RCW 85.08.410 and 1983 c 3 s 230 are each amended to read as follows:

At such hearing, which may be adjourned from time to time and from place to place, until finally completed, the board of county commissioners shall carefully examine and consider said schedule and any objections filed or made thereto and shall correct, revise, raise, lower, change, or modify such schedule or any part thereof, or strike therefrom any property not benefited, or set aside such schedule and order that such apportionment be made de novo, as to such body shall appear equitable and just. The board shall cause the clerk of the board to enter on such schedule all such additions, cancellations, changes, modifications, and reapportionments, all credits for damages allowed or awarded to the owner of any piece of property benefited, but not paid, as provided in RCW 85.08.200; also a credit in favor of the county on any apportionment against the county, of all sums paid on account of said improvement, as provided in RCW 85.08.210; and all sums allowed the county on account of services rendered by the county engineer or prosecuting attorney, as provided in RCW 85.08.360; and all credits allowed to property owners constructing crossings as provided in RCW 85.08.340. When the board of county commissioners shall have finally determined that the apportionment as filed or as changed and modified by the board is a fair, just and equitable apportionment, and that the proper credits have been entered thereon, the members of the board approving the same shall sign the schedule and cause the clerk of the board to attest their signature under his or her seal, and shall enter an order on the journal approving the final apportionment and all proceedings leading thereto and in connection therewith,

and shall levy the amounts so apportioned against the property benefited, and the determination by the board of county commissioners in fixing and approving such apportionment and making such levy shall be final and conclusive.

The board of county commissioners shall also at said hearing, levy, in the manner hereinafter provided for the levy of maintenance assessments, such assessment as they shall deem necessary to provide funds for the maintenance of the system of improvement until the first annual assessment for maintenance shall fall due.

Sec. 412. RCW 85.08.420 and 1923 c 46 s 9 are each amended to read as follows:

Upon the approval of said roll the county auditor shall immediately prepare a completed assessment roll which shall contain, first, a map of the district showing each separate description of property assessed; second, an index of the schedule of apportionments; third, an index of the record of the proceedings had in connection with the improvement; fourth, a copy of the resolution of the board of county commissioners fixing the method of payment of assessments; fifth, the warrant of the auditor authorizing the county treasurer to collect assessments; and sixth, the approved schedule of apportionments of assessments; and shall charge the county treasurer with the total amount of assessment and turn the roll over to the treasurer, for collection in accordance with the resolution of the board of county commissioners fixing the method of payment of assessments. As soon as the assessment roll has been turned over to the treasurer for collection, he or she shall publish a notice in the official newspaper of the county for once a week for at least two consecutive weeks, that the said roll is in his or her hands for collection and that any assessment thereon or any portion of any such assessment may be paid at any time on or before a date stated in such notice, which date shall be thirty days after the date of the first publication, without interest, and the treasurer shall accept such payment as in said notice provided. Upon the expiration of such thirty-day period the county treasurer shall certify to the county auditor the total amount of assessments so collected by him or her and the total amount of assessments remaining unpaid upon said roll.

Sec. 413. RCW 85.08.440 and 1988 c 202 s 77 are each amended to read as follows:

The decision of the board of county commissioners upon any objections made within the time and in the manner prescribed in RCW 85.08.400 through 85.08.430, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the clerk of such board and with the clerk of the superior court of the county in which such drainage or diking improvement district is situated, or in case of joint drainage or diking improvement districts with the clerk of the court of the county in which the greater length of such drainage or diking improvement system lies, within ten days after the order confirming such assessment roll shall have become effective, and such notice shall describe the property and set forth the objections of such appellant to such assessment; and, within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of said court a transcript consisting of the assessment roll and his or her objections thereto, together with the order confirming such assessment roll, and the record of the board of county

commissioners with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such clerk of the board of county commissioners, and by him or her certified to contain full, true, and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court, the appellant shall execute and file with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with good and sufficient surety, to be approved by the judge of said court, conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the county or the drainage or diking improvement district is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require; within three days after such transcript is filed in the superior court as aforesaid, the appellant shall give written notice to the prosecuting attorney of the county, and to the clerk of the board of county commissioners that such transcript is filed. Said notice shall state a time (not less than three days from the service thereof) when the appellant will call up the said cause for hearing; and the superior court of said county shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury. The judgment of the court shall confirm, correct, modify, or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have custody of the assessment roll, and he or she shall modify and correct such assessment roll in accordance with such decision. Appellate review of the judgment of the superior court may be sought as in other civil cases. However, the review must be sought within fifteen days after the date of the entry of the judgment of such superior court. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

Sec. 414. RCW 85.08.490 and 1923 c 46 s 11 are each amended to read as follows:

The purchaser, upon the foreclosure of any certificate of delinquency for any assessment or installment thereof, shall acquire title to such property subject to the installments of the assessment not yet due at the date of the decree of foreclosure, and the complaint, decree of foreclosure, order of sale, sale, certificate of sale and deed shall so state.

The holder of any certificate of delinquency for general taxes may, before commencing any action to foreclose the lien of such certificate, pay in full all drainage or diking or sewerage improvement district assessments or any installment thereof due and outstanding against the whole or any portion of the property included in such certificate of delinquency and the amount of all assessments so paid together with interest at ten percent per annum thereon shall be included in the amount for which foreclosure may be had; or, if he or she elects to foreclose such certificate without paying such assessments in full, the purchaser at such foreclosure sale shall acquire title to such property subject to all such drainage or diking or sewerage improvement district assessments. Any

property in any drainage or diking or sewerage improvement district sold under foreclosure for general taxes shall remain subject to the lien of all drainage and diking or sewerage improvement district assessments or installments thereof not yet due at the time of the decree of foreclosure and the complaint, decree of foreclosure, order of sale, sale, certificate of sale and deed shall so state.

Sec. 415. RCW 85.08.500 and 1923 c 46 s 11 are each amended to read as follows:

Property subject to a drainage or diking or sewerage improvement district assessment, acquired by a county pursuant to a foreclosure and sale for general taxes, when offered for sale by the county, shall be offered for the amount of the general taxes for which the same was struck off to the county, together with all drainage or diking or sewerage improvement district assessments or installments thereof, due at the time of such resale, including maintenance assessments, and supplemental assessments levied pursuant to the provisions of RCW 85.08.520, coming due while the property was held in the name of the county; and the property shall be sold subject to the lien of all drainage or diking or sewerage improvement district assessments or installments thereof not yet due at the time of such sale, and the notice of sale and deed shall so state. PROVIDED, That the county board may in its discretion, sell said property at a lesser sum than the amount for which the property is offered in the notice of sale. The proceeds of such sale shall be applied first to discharge in full the lien or liens for general taxes for which said property was sold, and the remainder, or such portion thereof as may be necessary, shall be applied toward the discharge of all drainage or diking or sewerage improvement district assessment liens upon such property, and the surplus, if any, shall be applied toward the payment of any delinquent or due local assessments or local assessment installments outstanding against the property levied by any authority other than that of the county, taking them in the order of their maturities, beginning with the earliest; after which if any money remains the treasurer shall hold the same for the person whose interest in the property entitles him or her thereto. If there be no purchaser, the property shall again be offered for sale within one year thereafter, and shall be successively offered for sale each year until a sale thereof be effected.

Property struck off to or bid in by a county may be leased pursuant to resolution of the county commissioners on such terms as the commissioners shall determine for a period ending not later than the time at which such property shall again be offered for sale as required by law. Rentals received under such lease shall be applied in the manner hereinabove provided for the proceeds of sale of such property.

All statements of general state taxes where drainage, diking, or sewer improvement district assessments against the land described therein are due shall include a notation thereon or be accompanied by a statement showing such fact.

Sec. 416. RCW 85.08.570 and 1923 c 46 s 13 are each amended to read as follows:

When a drainage, diking, or sewerage system is proposed which will require a location, or the assessment of lands, in more than one county, application therefor shall be made to the board of county commissioners in each of said counties, and the county engineers shall make preliminary reports for their respective counties. The lines of such proposed improvement shall be examined

by the county engineers of the counties wherein said improvements will lie, jointly. The hearings in regard to such improvements, provided for by RCW 85.08.150, and 85.08.400 through 85.08.430 shall be had by the boards of county commissioners of the two counties in joint sessions, and all other matters required to be done by the county commissioners in regard to such improvement and the improvement district shall be had and done by the boards of county commissioners of the counties wherein such system of improvements shall lie, either in joint session at such place as the said board shall order, or by concurrent order entered into by the said boards at their respective offices. Notice of the hearings shall be given by the auditors of both counties jointly by publication in the official paper of each of said counties. The county engineer of the county wherein the greatest length of drainage, diking, or sewerage system will lie, shall have charge of the engineering work and be ex officio a member of the boards in this chapter provided for. The schedule of apportionment shall be prepared in separate parts for the land in the respective counties; and that part of said roll containing the assessments upon the lands in each respective county shall be transmitted to the treasurer thereof, and the treasurer of said county shall give notice of said assessments as provided in RCW 85.08.400 through 85.08.430, and shall collect the assessments therein contained and shall also extend and collect the annual maintenance levies of said district upon the lands of said district lying in his or her county. The auditor of the county in which the greater length of the drainage, diking, or sewerage system shall lie shall act as clerk of the joint session of the boards of county commissioners, and shall issue the warrants of the improvement district, and shall attest the signatures of the two boards of county commissioners on the bonds. He or she shall furnish to the auditor of the other county duplicate copies of the records of proceedings of such joint sessions. Duplicate records of all proceedings had and papers filed in connection with such improvements shall be kept, one with the auditor of each county. Protests or other papers filed with the auditor who is not clerk of the joint sessions shall be forwarded forthwith by him or her to the auditor who acts as clerk of such joint sessions. The treasurer of said county shall register and certify and pay the warrants and the bonds, and shall have charge of the funds of the district; and to him or her, the treasurer of the county in which the lesser portion of such system of improvements lie, shall remit semiannually, in time for the semiannual warrant and bond calls, all such collections made in such other county. A drainage, diking, or sewerage improvement district lying in more than one county shall be designated "joint drainage (or diking) or sewerage improvement district No. . . . of and counties." All proceedings in regard to joint drainage, diking improvement districts, which have heretofore been had and done substantially in accordance with the amendatory provisions of this chapter are hereby approved and declared to be valid.

Sec. 417. RCW 85.08.820 and 1988 c 127 s 38 are each amended to read as follows:

Whenever the department of ecology shall have purchased and the state of Washington owns the entire issue of any series of bonds of any county in the state, the payment of which is to be made from and is secured by assessments upon the property included within any drainage improvement district organized and existing in such county, and it shall appear to the satisfaction of the director of ecology that owing to and by reason of the nature of the soil within and the

topography of such drainage improvement district the lands contained therein were not or will not be drained sufficiently to permit the cultivation thereof within the time when assessments for the payment of the interest on said bonds and to constitute a sinking fund to retire said bonds as provided by law became or will become due, and that by reason thereof the owners of said lands were or will be unable to meet said assessment, the director of ecology shall have the power and he or she is hereby authorized under such terms and conditions as he or she shall deem advisable to enter into a contract in writing with the board of county commissioners of the county issuing such bonds, waiving the payment of interest upon such bonds from the date of their issue for not to exceed five years, and extending the time of payment of said bonds for not to exceed five years; and upon the execution of said contract the board of county commissioners of said county shall have the power and is hereby authorized to cancel all assessments made upon the lands included within such drainage improvement district for the payment of principal and/or interest on said bonds prior to the date of said contract, and to omit the levy of any assessments for said purposes until the expiration of the time of the waiver of interest payments upon said bonds specified in said contract.

Sec. 418. RCW 85.08.840 and 1957 c 94 s 3 are each amended to read as follows:

The boards of county commissioners of the counties in which a joint drainage improvement district is situated shall have jurisdiction in joint session to hear, supervise, and conduct the merger proceedings relating to such a district. The auditor of the county in which the greater length of the system of improvements lies shall act as clerk of the joint sessions of the boards of county commissioners, and shall give the notice provided for in RCW 85.08.870. He or she shall furnish to the auditor of the other county duplicate copies of the records of proceedings of the joint sessions. Duplicate records of all proceedings had and papers filed in connection with the merger of a joint drainage improvement district shall be kept with the auditor of each county. The board of county commissioners of the county in which a drainage improvement district or consolidated drainage improvement district is situated shall have exclusive jurisdiction to hear, supervise, and conduct merger proceedings relating to such districts.

Sec. 419. RCW 85.15.030 and 1973 1st ex.s. c 195 s 111 are each amended to read as follows:

To operate under this chapter, the board of commissioners of the improvement district shall cause to be prepared and filed with the board of county commissioners a property roll. The roll shall contain: (1) A description of all properties benefited and improvements thereon which receive protection and service from the systems of the district with the name of the owner or the reputed owner thereof and his or her address as shown on the tax rolls of the assessor or treasurer of the county wherein the property is located and (2) the determined value of such land and improvements thereon as last assessed and equalized by the assessor of such county or counties. Such assessed and equalized values shall be deemed prima facie to be just, fair, and correct valuations against which annual taxes shall be levied for the operation of the district and the maintenance and expansion of its facilities.

If property outside of the limits of the original district are upon the roll as adopted ultimately, and the original district has outstanding bonds or long-term warrants, the board of county commissioners shall set up separate dollar rate levies for the full retirement thereof.

Sec. 420. RCW 85.15.090 and 1967 c 184 s 10 are each amended to read as follows:

The decision of the board of county commissioners upon any objection made within the time and in the manner prescribed may be reviewed by the superior court of the county wherein the property in question is located, upon appeal thereto taken in the following manner: Any person aggrieved must file his or her petition for writ of review with the clerk of the superior court wherein the property is located within ten days after the roll affecting such aggrieved party was adopted by resolution, and serve a copy thereof upon the county treasurer. The petition shall describe the property in question, shall set forth the written objections which were made to the decision, and the date of filing of such objections, and shall be signed by such party or someone in his or her behalf. The court shall forthwith grant such petition if correct as to form and filed in accordance with this chapter.

Sec. 421. RCW 85.15.110 and 1967 c 184 s 12 are each amended to read as follows:

The county clerk shall charge the same filing fees for petitions for review as in civil actions. At the time of the filing of such a petition with the clerk, the appellant shall execute and file a bond in the penal sum of two hundred dollars, with at least two sureties, to be approved by the judge of the court, conditioned upon his or her prosecuting his or her appeal without delay and to guarantee all costs which may be assessed against him or her by reason of such review. The court shall, on motion of either party to the cause, with notice to the other party, set the cause for trial at the earliest time available to the court, fixing a date for hearing and trial without a jury. The cause shall have preference over all civil actions pending in the court except eminent domain and forcible entry and detainer proceedings.

Sec. 422. RCW 85.15.150 and 1967 c 184 s 16 are each amended to read as follows:

The board of any improvement district proceeding under this chapter shall, on or before the first day of September of each year, make an estimate of the costs reasonably anticipated to be required for the effective functioning of the district during the ensuing year and until further revenue therefor can be made available, and shall cause its (~~chairman~~) chair or secretary to file the same with the board of county commissioners of the county containing the district and other benefited area. The board of county commissioners shall, on or before the first Monday in October next ensuing, certify the amount of the district's estimate, or such amount as it shall deem advisable, to the county treasurer. The amount so certified shall be applied by the regular taxing agencies against the benefit valuation of lands, buildings and improvements as shown by the then current complete roll of such properties certified to and filed with such county treasurer by the board of county commissioners. When thus levied, the amount of assessment produced thereby shall be added by the general taxing authorities to the general taxes against said lands and collected therewith as a part thereof.

If unpaid, any delinquencies in such assessments shall bear interest at the same rate and in the same manner as general taxes and they shall be included in and be made a part of any general tax foreclosure proceedings, according to the provisions of law with relation to such foreclosures. As assessment collections are made, the county treasurer shall credit the same to the funds of the district.

Sec. 423. RCW 85.16.130 and 1949 c 26 s 9 are each amended to read as follows:

At the hearing upon the report of the appraisers, which may be adjourned from time to time until finally completed, the board shall carefully examine and consider the special benefits and the apportionment of estimated costs determined by the appraisers and reported in the schedule or schedules, and any objections thereto which shall have been made in writing and filed with the board on or prior to ten o'clock a.m. of the date fixed for such hearing. Each objector shall be given reasonable time and opportunity to submit evidence and be heard on the merits of his or her objections. At the conclusion of such hearing, the board shall so correct, revise, raise, lower, change, or modify such schedule or schedules, or any part thereof, or strike therefrom any property not specially benefited, as to said board shall appear equitable and just. The board shall cause the clerk of the board to enter on each such schedule or schedules all such additions, cancellations, changes, and modifications made by it.

Sec. 424. RCW 85.16.150 and 1949 c 26 s 10 are each amended to read as follows:

When the board shall have determined that the schedule or schedules of benefits and/or apportionment of costs as filed or as changed and modified by it are fair, just and equitable and, if estimated costs have been apportioned, that said benefits equal or exceed said costs apportioned, the members of the board approving the same shall sign said schedule or schedules and cause the clerk of the board to attest their signatures under his or her seal, and shall enter an order in the journal approving and confirming the final determination of such benefits and apportionment of costs and all proceedings leading thereto and in connection therewith. If separate schedules be established for maintenance of the diking system and of the drainage system, the board shall by order establish two separate maintenance funds, one for the maintenance of the diking system and one for the maintenance of the drainage system.

Sec. 425. RCW 85.18.160 and 1951 c 45 s 17 are each amended to read as follows:

The board of commissioners of any diking district proceeding under this chapter shall, on or before the first day of November of each year, make an estimate of the costs reasonably anticipated to be required for the effective functioning of such district during the ensuing year and until further revenue therefor can be made available, and cause its (~~(chairman)~~) chair or secretary to certify the same on or before said date to the county auditor, and the amount so certified shall be levied by the regular taxing agencies against the base benefits to the lands and buildings within such district as shown by the then current complete roll of such properties and the determined benefits thereto as therefore certified to and filed with such county auditor by the commissioners of such district. When thus levied, the amount of assessment produced thereby shall be added by the general taxing authorities to the general taxes against said lands

and collected therewith as a part thereof. If unpaid, any delinquencies in such assessments shall bear interest at the same rate and in the same manner as general taxes and they shall be included in and be made a part of any general tax foreclosure proceedings, according to the provisions of law with relation to such foreclosures. As assessment collections are made, the county treasurer shall credit the same to the funds of such district.

Sec. 426. RCW 85.16.210 and 1988 c 202 s 80 are each amended to read as follows:

At such hearing, which may be adjourned from time to time as may be necessary to give all persons interested or affected a reasonable opportunity to be heard, and after consideration of all evidence offered and all factors, situations, and conditions bearing upon or determinative of the benefits accruing and to accrue to such pieces or parcels of property, the board shall correct, revise, raise, lower, or otherwise change or confirm the benefits as theretofore determined, in respect of such pieces or parcels of property, as to it shall seem fair, just, and equitable under the circumstances, and thereafter such proceedings shall be had with respect to the confirmation or determination of the benefits and making and filing of a roll thereof, as are in RCW 85.16.130, 85.16.150, and 85.16.160 provided. Any property owner affected by any change thus made in the determination of benefits accruing to his or her property who shall have appeared at the hearing by the board and made written objections thereto as provided in RCW 85.16.130, may appeal from the action of the board to the superior court and seek appellate review by the supreme court or the court of appeals, within the time, in the manner and upon the conditions, so far as applicable, provided in RCW 85.08.440, with respect to appeals from the order of the board confirming the apportionment of the original cost of construction.

Sec. 427. RCW 85.16.230 and 1951 c 63 s 3 are each amended to read as follows:

Whenever any payer of a diking, drainage, or sewerage improvement district maintenance assessment believes that, through obvious error in name, number, description, amount of benefit valuation, double assessment, or extension, or other obvious error, property on which he or she has paid an assessment has been erroneously assessed, he or she may pay such assessment under protest. If, within thirty days after such payment under protest, he or she files with the board a written verified petition setting out his or her name, address, and legal description of the property, the nature of the obvious error alleged to have been made, and the date and amount of any assessment paid thereon, the board shall cause such claim to be investigated. If upon investigation any assessment is found to be erroneous through obvious error, the board shall order such assessment to be corrected if no bond or long term warrant issue is affected. Where correction is ordered of an erroneous assessment already collected, the auditor, upon receipt of a certified copy of the board's order of correction, shall refund to the person paying the assessment the difference between the correct assessment and the erroneous assessment, plus legal interest on such difference from date of payment, by a warrant drawn on the maintenance fund of the district.

Sec. 428. RCW 85.18.040 and 1985 c 469 s 76 are each amended to read as follows:

The notice of the time and place of hearing shall be given to any owner, or reputed owner, of the property which is listed on the roll as aforesaid, by mailing a copy thereof at least thirty days before the date fixed for the hearing to the owner or owners at his or her or their address as shown on the tax rolls of the county treasurer for the property described. In addition thereto, the notice shall be published at least once a week for three consecutive weeks in a newspaper of general circulation in the district. At least fifteen days must elapse between the last date of publication thereof and the date fixed for the hearing.

Sec. 429. RCW 85.18.100 and 1951 c 45 s 11 are each amended to read as follows:

The decision of the board of commissioners upon any objection made within the time and in the manner prescribed may be reviewed by the superior court of the county wherein the property in question is located, upon appeal thereto taken in the following manner: Any person aggrieved must file his or her petition for writ of review with the clerk of the superior court wherein the property is located within ten days after the roll affecting such aggrieved party was adopted by resolution, and serve a copy thereof upon the commissioners. The petition shall describe the property in question, set forth the written objections which were made to the decision, the date of filing of such objections, and be signed by such party or one in his or her behalf. The court shall forthwith grant such petition if correct as to form and filed in accordance with this chapter.

Sec. 430. RCW 85.18.120 and 1951 c 45 s 13 are each amended to read as follows:

The county clerk shall charge the same filing fees for petitions for review as in civil actions. At the time of the filing of such petition with the clerk, the appellant shall execute and file a bond in the penal sum of two hundred dollars, with at least two sureties, to be approved by the judge of said court, conditioned upon his or her prosecuting his or her appeal without delay and to guarantee all costs which may be assessed against him or her by reason of such review. The court shall, on motion of either party to the cause, with notice to the other party, set said cause for trial at the earliest time available to the court, fixing a date for hearing and trial without a jury. Said cause shall have preference over all civil actions pending in said court except eminent domain and forcible entry and detainer proceedings.

Sec. 431. RCW 85.24.070 and 1985 c 396 s 53 are each amended to read as follows:

A three-member board of commissioners shall be the governing body of an intercounty diking and drainage district. The initial commissioners shall be appointed, and the elected commissioners elected, as provided in chapter 85.38 RCW.

The members of such board, before entering upon their duties, shall take and subscribe on oath substantially as follows:

State of Washington
County of } ss.

I, the undersigned, a member of the board of commissioners of the diking and drainage district No., in and counties, do solemnly swear (or affirm) that I will faithfully discharge my duties as a member of the commission.

Upon the taking of such oath and the entering into a bond, as provided in RCW 85.38.080, the county legislative authority shall enter an order upon its records that the three persons named have qualified as the board of commissioners for diking and drainage district No., in and counties, and that those persons and their successors do and shall constitute a board of commissioners for the diking and drainage district. The order when made shall be conclusive of the regularity of the election and qualification of the board of diking and drainage commissioners for the particular district, and the persons named therein shall constitute the board of diking and drainage commissioners.

The board of diking and drainage commissioners shall thereupon immediately organize and elect one of their number as (~~chairman~~) chair and may either appoint a voter of the district or another diking and drainage commissioner to act as secretary. The board shall then proceed to make and cause to be made specifications and details of a system which may be adopted by the board for the improvements to be made, together with an estimate of the total cost thereof; and shall, upon the adoption of the plan of improvement of the district, proceed to acquire the necessary property and property rights for the construction, establishment, and maintenance of the system either by purchase or by power of eminent domain as hereinafter provided. Upon such acquisition being had, the board shall then proceed with the construction of the diking and drainage system and in doing so shall have the power to do the work directly or in its discretion to have all or any part of the work done by contract. In case the board shall decide upon doing the same by contract, it shall advertise for bids for the construction work, or such part thereof as they may determine to have done by contract, and shall have the authority to let a contract to the lowest responsible bidder after advertising for bids.

Any contractor doing work hereunder shall be required to furnish a bond as provided by the laws of the state of Washington relating to contractors of public work.

The board shall have the right, power, and authority to issue vouchers or warrants in payment or evidence of payment of any and all expenses incurred under this chapter, and shall have the power to issue the same to any contractor as the work progresses, the same to be based upon the partial estimates furnished from time to time by engineers of the district. All warrants issued hereunder shall draw interest at a rate determined by the board.

Upon the completion of the construction of the system, and ascertainment of the total cost thereof including all compensation and damages and costs and expenses incident to the acquiring of the necessary property and property right, the board shall then proceed to levy an assessment upon the taxable real property within the district which the board may find to be specially benefited by the proposed improvements; and shall make and levy such assessment upon each piece, lot, parcel, and separate tract of real estate in proportion to the particular and special benefits thereto. Upon determining the amount of the assessment against each particular tract of real estate as aforesaid, the commissioners shall

make or cause to be made an assessment roll, in which shall appear the names of the owners of the property assessed, so far as known, and a general description of each lot, block, parcel, or tract of land within the district, and the amount assessed against the same, as separate, special, or particular benefits. The board shall thereupon make an order setting and fixing a day for hearing any objections to the assessment roll by any one affected thereby, which day shall be at least twenty days after the mailing of notices thereof, postage prepaid, as herein provided. The board shall send or cause to be sent by mail to each owner of the premises assessed, whose name and place of residence is known, a notice, substantially in the following form:

To: Your property (here describe the property) is assessed \$ A hearing on the assessment roll will be had before the undersigned at the office of the board at on the day of at which time you are notified to be and appear and to make any and all objections which you may have as to the amount of the assessment against your property, or as to whether it should be assessed at all; and to make any and all objections which you may have to the assessment against your lands, or any part or portion thereof.

The failure to send or cause to be sent such notice shall not be fatal to the proceedings herein described. The secretary of the board on the mailing of the notices shall certify generally that he or she has mailed such notices to the known address of all owners, and such certificate shall be prima facie evidence of the mailing of all such notices at the date mentioned in the certificate.

The board shall cause at least ten days' notice of the hearing to be given by posting notice in at least ten public places within the boundaries of the district, and by publishing the same at least five successive times in a daily newspaper published in each of the counties affected; and for at least two successive weeks in one or more weekly newspapers within the boundaries of the district, in each county if there are such newspapers published therein, and if there is no such newspaper published, then in one or more weekly newspapers, having a circulation in the district, for two successive weeks. The notice shall be signed by the ((~~chairman~~)) chair or secretary of the board of commissioners, and shall state the date and place of hearing of objections to the assessment roll and levy, and of all other objections; and that all interested parties will be heard as to any objection to the assessment roll and the levies as therein made.

Sec. 432. RCW 85.24.075 and 1909 c 225 s 21 are each amended to read as follows:

The ((~~chairman~~)) chair of the board shall preside at all meetings and shall have the right to vote upon all questions the same as other members, and shall perform such duties in addition to those in this chapter prescribed as may be fixed by the board. The secretary of the board shall perform the duties in this chapter prescribed, and such other duties as may be fixed by the board. A majority of the board shall constitute a quorum for the transaction of business, but it shall require a majority of the entire board to authorize any action by the board.

Sec. 433. RCW 85.24.130 and 1988 c 202 s 82 are each amended to read as follows:

Any person interested in any real estate affected by said assessment may, within the time fixed, appear and file objections. As to all parcels, lots, or blocks

as to which no objections are filed, within the time as aforesaid, the assessment thereon shall be confirmed and shall be final. On the hearing, each person may offer proof, and proof may also be offered on behalf of the assessment, and the board shall affirm, modify, change, and determine the assessment, in such sum as to the board appears just and right. The commissioners may increase the assessment during such hearing upon any particular tract by mailing notice to the owner at his or her last known address, to be and appear within a time not less than ten days after the date of the notice, to show cause why his or her assessment should not be increased. When the assessment is finally equalized and fixed by the board, the secretary thereof shall certify the same to the county treasurer of each county in which the lands are situated, for collection; or if appeal has been taken from any part thereof, then so much thereof as has not been appealed from shall be certified. In case any owner of property appeals to the superior court in relation to the assessment or other matter when the amount of the assessment is determined by the court finally, either upon determination of the superior court, or review by the supreme court or the court of appeals, then the assessment as finally fixed and determined by the court shall be certified by the clerk of the proper court to the county treasurer of the county in which the lands are situated and shall be spread upon and become a part of the assessment roll hereinbefore referred to.

Sec. 434. RCW 85.24.140 and 1988 c 202 s 83 are each amended to read as follows:

Any person who feels aggrieved by the final assessment made against any lot, block, or parcel of land owned by him or her, may appeal therefrom to the superior court of the county in which the land is situated. Such appeal shall be taken within the time and substantially in the manner prescribed by the laws of this state for appeals from justices' courts. All notice of appeal shall be filed with the said board, and shall be served upon the prosecuting attorney of the county in which the action is brought. The secretary of the board shall, at appellant's expense, certify to the superior court so much of the record as appellant may request, and the cause shall be tried in the superior court de novo.

Any person aggrieved by any final order or judgment made by the superior court concerning any assessment authorized by this chapter, may seek appellate review of the order or judgment as in other civil cases.

Sec. 435. RCW 85.24.150 and 1985 c 469 s 83 are each amended to read as follows:

The final assessment shall be a lien paramount to all other liens except liens for taxes and other special assessments upon the property assessed, from the time the assessment roll shall have been finally approved by the board, and placed in the hands of the county treasurers as collectors. After the roll shall have been delivered to the county treasurers for collection, each treasurer shall proceed to collect the amounts due in the manner that other taxes are collected as to all lands situated within the county of which he or she is treasurer. The treasurer shall give at least ten days' notice in one or more newspapers of general circulation in the counties in which the lands are situated for two successive weeks, that the roll has been certified to him or her for collection, and that unless payment be made within thirty days from the date of the notice, that the sum charged against each lot or parcel of land shall be paid in not more than ten equal

annual payments, with interest upon the whole sum so charged, at a rate not to exceed seven percent per annum. The interest shall be paid annually. The county treasurer shall proceed to collect the amount due each year upon the publication of notice as hereinafter provided. In such publication notice it shall not be necessary to give a description of each tract, piece or parcel of land, or of the names of the owners thereof.

The treasurer shall also mail a copy of the notice to the owner of the property assessed, when the post office address of the owner is known to the treasurer; but the failure to mail the notice shall not be necessary to the validity of the collection of the tax.

Sec. 436. RCW 85.24.160 and 1986 c 278 s 38 are each amended to read as follows:

The owner of any lot or parcel of land charged with any assessment, as hereinbefore provided, may redeem the same from all liability by paying the entire assessment charged against such lot or parcel of land, or part thereof, without interest, within thirty days after notice to him or her of such assessment, as herein provided.

Sec. 437. RCW 85.24.170 and 1909 c 225 s 22 are each amended to read as follows:

The treasurer of each county shall collect the taxes levied and assessed hereunder upon all that portion of the property situated within the county for which the treasurer is acting. The treasurer of the county in which the smaller or minor portion of the taxes are to be collected shall forward the amount collected by him or her quarterly each year on the first Monday in January, April, July, and October, to the treasurer of the county in which the larger or major portion of the taxes are to be collected. The treasurer of the county in which the larger portion of the taxes have been levied and assessed shall be the disbursing officer of such diking and drainage district, and shall pay out the funds of such district upon orders drawn by the (~~chairman~~) chair and secretary of the board acting under authority of the board, and shall be the treasurer of the fund.

Sec. 438. RCW 85.24.180 and 1909 c 225 s 23 are each amended to read as follows:

If any of the installment of taxes are not paid as herein provided, the county treasurer shall sell all lots or parcels of land on which taxes have been levied and assessed, whether in the name of the designated owner or the name of an unknown owner, to satisfy all delinquent and unpaid assessments, interest, penalties, and costs. The treasurer must commence the sale of property upon which taxes are delinquent within sixty days after the same become delinquent, and continue such sale from day to day thereafter until all the lots and parcels of land upon which taxes have not been paid are sold. Such sales shall take place at the front door of the court house. The proper treasurer shall give notice of such sales by publishing a notice thereof once a week for two successive weeks in two or more newspapers published within the district, or if no such newspaper is published, within the district, then within any two or more newspapers having a general circulation in such district; such notice shall contain a list of all lots and parcels of land upon which such assessments are delinquent, with the amount of interest, penalty, and cost at the date of sale, including costs of advertising had upon each of such lots, pieces, or parcels of land, together with the names of the

owners thereof, if known to the treasurer, or the word "unknown" if unknown to the treasurer, and shall specify the time and place of sale, and that the several lots or parcels of land therein described, or so much as may be necessary, will be sold to satisfy the assessment, interest, penalty, and cost due upon each. All such sales shall be made between the hours of ten o'clock a.m. and three o'clock p.m. Such sales shall be made in the manner now prescribed by the general laws of this state for the sale of property for delinquent taxes, and certificates and deeds shall be made to the purchasers and redemptions made as is now prescribed by the general laws of this state in the manner and upon the terms therein specified: PROVIDED, That no tax deeds shall be made until after the expiration of one year after the issuance of the certificate, and during such year any person interested may redeem. A certificate of purchase shall be issued to the district for all lots and parcels of land not sold. Certificates issued to the district shall be delivered to the board of commissioners of the district. The board of commissioners of the district may sell and transfer any such certificate to any person who is willing to pay to the district the amount for which the lot or parcel of land therein described was stricken off to the district, with the interest subsequently accrued thereon. Within ten days after the completion of sale of all lots, pieces, and parcels of land authorized to be sold as aforesaid, the treasurer must make a return to the board of commissioners with a statement of the doings thereon, showing all lots and parcels of land sold by him or her, to whom sold and the sum paid therefor. The purchaser at improvement sales acquires a lien on the lot, piece, or parcel of land sold for the amount paid by him or her at such sales for all delinquent taxes and assessments, and all costs and charges thereon, whether levied previously or subsequently to such sale, subsequently paid by him or her on the lot or parcel of land, and shall be entitled to interest thereon at the rate of ten percent per annum from the date of such payment.

Sec. 439. RCW 85.24.290 and 1909 c 225 s 29 are each amended to read as follows:

When any notice is required to be given to the owner under any of the provisions of this chapter, such notice shall be given to the agent instead of the owner, in case the owner prior to the giving of the notice required by the board or proper officer has filed with the board or proper officer the name of the agent with his or her post office address.

Sec. 440. RCW 85.28.030 and 1899 c 125 s 3 are each amended to read as follows:

The petitioner, or someone in his or her behalf, shall enter into a bond in the penal sum of one hundred dollars, with two or more sureties, to be approved by the clerk of said court, payable to the state of Washington, conditioned that the petitioner or petitioners will pay all costs and expenses incurred in the proceeding; which said bond shall be filed with the petition.

Sec. 441. RCW 85.28.040 and 1899 c 125 s 4 are each amended to read as follows:

Upon the filing of said petition the court shall appoint three viewers, two of whom shall be resident freeholders of said county, and not interested in the result of the proceeding, and the other the county surveyor of the county in which the lands are situated (unless said county surveyor shall be a party in interest, in which case some other competent surveyor shall be appointed in his or her place

who shall receive the same compensation as is allowed by law to county surveyors) who shall, upon a day to be fixed by the court, in the order appointing them, view the lands of the petitioner and the lands which said proposed ditch or drain is to cross, for the purpose of determining: First, whether there is a necessity for the establishment of a ditch; and, second, the most practicable route for said ditch to run, if the same be necessary. The clerk of said court shall furnish to said viewers a certified copy of the order appointing them, which shall warrant them entering upon the lands described in the petition for the purpose of viewing the same.

Sec. 442. RCW 85.28.060 and 1899 c 125 s 6 are each amended to read as follows:

Upon the filing of the report of the viewers aforesaid, a summons shall be issued in the same manner as summons are issued in civil actions, and served upon each person owning or interested in any lands over which the proposed ditch or drain will pass. Said summons must inform the person to whom it is directed of the appointment and report of the viewers; a description of the land over which said ditch will pass of which such person is the owner, or in which he or she has an interest; the width and depth of said proposed ditch, and the distance which it traverses said land, also an accurate description of the course thereof. It must also show the amount of damages to said land as estimated by said viewers; and that unless the person so summoned appears and files objections to the report of the viewers, within twenty days after the service of said summons upon him or her, exclusive of the day of service, the same will be approved by the court, which summons may be in the following form:

In the Superior Court of the State of Washington, for County.

In the matter of the application of for a private ditch.

The state of Washington to

Whereas, on the day of 19. . . filed his or her petition in the above entitled court praying that a private ditch or drain be established across the following described lands, to wit:

.
for the purpose of draining certain lands belonging to said, and whereas, on the day of, 19. . ., Messrs. and with county surveyor of county, were appointed to view said premises in the manner provided by law, and said viewers having, on the day of, 19. . ., filed their report in this court, finding in favor of said ditch and locating the same upon the following course: for a distance of upon said land, and of a width of feet and a depth of feet; and they further find that said land will be damaged by the establishing and construction of said ditch in the sum of \$: Now therefore, you are hereby summoned to appear within twenty days after the service of this summons, exclusive of the day of service, and file your objections to said petition and the report of said viewers, with this court; and in case of your failure so to do, said report will be approved and said petition granted.

.....
Plaintiff's Attorney.

P.O. Address

Sec. 443. RCW 85.28.080 and 1899 c 125 s 7 are each amended to read as follows:

In case any person interested in any of the lands to be crossed by such ditch, as aforesaid, does not reside in the county, or cannot be found therein, or conceals himself or herself so that personal service cannot be had upon him or her, upon proof thereof being made satisfactorily to appear to said court, said summons may be served by publication, in the same manner and with like effect as is done in civil actions: PROVIDED, That no other or different form of summons shall be required for publication than is required for personal service.

Sec. 444. RCW 85.28.090 and 1899 c 125 s 8 are each amended to read as follows:

Upon the expiration of the time within which exceptions may be filed to the report of the viewers aforesaid, the court shall set a day upon which the petition and the report of the viewers shall be heard and considered by the court. In case exceptions have been filed by any party or parties, which exceptions must have been served upon the petitioner or petitioners prior to the hearing, the court shall hear evidence in regard thereto, and without a jury, pass upon the questions of the necessity for said ditch and the location thereof. If the court finds that such ditch is necessary, and the route selected is the best and most practicable, and that the compensation allowed by the viewers is just and reasonable, then the court shall file his or her findings to this effect and cause an order to be entered approving the petition and report of the viewers. If, within twenty days from the filing of the findings of facts aforesaid, the petitioner or petitioners shall pay into court all the costs and sums awarded to the owner or owners of the land over which said ditch shall pass, a decree shall be entered establishing the same: PROVIDED, If any party shall except to the amount of damages found by the viewers, then the amount of such damages shall be tried by jury, unless a jury trial be waived by the parties, in which case trial thereof may be had by the court. Such trial shall be at a regular term of said court, at which a jury shall be present, and shall be conducted and verdict rendered in the same manner as in civil actions: PROVIDED FURTHER, That it shall not be incumbent on the petitioner to pay into court the amount of the award or awards of said jury, until within twenty days after said verdict shall have been rendered and entered.

Sec. 445. RCW 85.32.050 and 1973 1st ex.s. c 195 s 122 are each amended to read as follows:

The roll of properties referred to in this chapter shall contain (1) a description of all properties and improvements thereon, with the name of the owner or the reputed owner thereof and his or her address as shown on the tax rolls of the assessor or treasurer of the county wherein the property is located, and (2) the determined value of such land and improvements thereon as last assessed and equalized by the taxing agencies of such county. Such assessed and equalized values shall be deemed prima facie as a just, fair, and correct base of value for consideration by the board in its determination ultimately of the just and correct base of value in each instance against which annual dollar rates shall be levied by the district for the operation of the district and the expansion and maintenance of its facilities.

If property outside of the territorial limits of the district are upon the roll as adopted ultimately, and the district has prior indebtedness existing, the board

shall set up separate dollar rate levies for the retirement thereof until it is extinguished, which levies shall be applied solely against the properties within the territorial limits of the district. Adjustments of the roll shall be made before final adoption in such a manner that the money raised through annual dollar rate levies for maintenance, expansion, and operational costs of the district in no instance shall exceed the value of the service rendered or to be rendered and the benefit received and to be received by the property involved.

Sec. 446. RCW 85.32.060 and 1985 c 469 s 84 are each amended to read as follows:

When the board causes a property roll to be filed with it and a hearing to be held thereon as provided in this chapter, it shall give notice of the hearing in the following manner:

The notice shall be published at least three times in consecutive issues in a weekly newspaper, or once a week for three consecutive weeks in a daily newspaper having general circulation in the area involved. The last publication shall be more than fifteen days prior to date of hearing. The board also shall cause a copy of the notice to be mailed in regular course of the federal mail at least thirty days prior to the date of the hearing to the owner or reputed owner of the property at his or her address, all as shown on the tax rolls or records of the county taxing agencies of the county wherein the property is situated, such notice being deemed adequate and sufficient. The sworn affidavit of the one doing such mailing shall be deemed conclusive of the fact that the notice was mailed.

The notice shall state the following:

(1) That the board has tentatively determined that the property of the owner or reputed owner named is receiving and will receive service and benefit from the facilities of the district;

(2) That the board has caused a tentative roll of the properties with any improvements thereon which are receiving and will receive service and benefit to be filed with it; and that the roll shows a base of valuation thereon for the properties against which annual dollar rates will be levied and collected in the same manner as general taxes to pay the fair value of the benefit and service received and to be received by the property through use of the facilities of the district, and to pay the annual cost of operation, development, and maintenance of the district and its facilities;

(3) That on a date, time, and place stated, the board will give consideration to the facts and the roll, will hear all objections filed, will review the roll and alter, modify, or change the same consistent with facts established and with equity and fair dealing concerning the properties involved to the end that just levies will be made for service and benefits received and to be received against each property for the purposes mentioned; and at the hearing or continuance thereof, it will adopt the roll in final form and certify and file a copy thereof with the assessor and treasurer of the county wherein the property is located; and will cause annual millage to be levied against such established valuations for the purposes stated;

(4) That all persons desiring to object to the proceedings, to the proposed base valuations, or to any other thing or matter in connection with the proceedings, must file written objections with the board stating clearly the basis

of the objection before the time of the hearing, or all objections will be deemed waived.

Sec. 447. RCW 85.32.170 and 1961 c 131 s 18 are each amended to read as follows:

The decision of the board upon any objection made within the time and in the manner prescribed in this chapter may be reviewed by the superior court of the county wherein the property in question is located. Any person aggrieved must file his or her petition for writ of review with the clerk of the superior court wherein the property is located within ten days after the roll affecting such aggrieved party was adopted by resolution, and he or she shall serve a copy thereof upon the board. The petition shall describe the property in question, set forth the written objections which were made to the decision, give the date of filing of such objections, and shall be signed by such party or someone in his or her behalf. The court shall forthwith grant such petition if correct as to form and filed in accordance with this section.

Sec. 448. RCW 86.09.259 and 1985 c 396 s 58 are each amended to read as follows:

A flood control district shall be managed by a board of directors consisting of three members. The initial directors shall be appointed, and the elected directors elected, as provided in chapter 85.38 RCW. The directors shall elect a ((~~chairman~~)) chair from their number and shall either elect one of their number, or appoint a voter of the district, as secretary to hold office at its pleasure and who shall keep a record of its proceedings.

Sec. 449. RCW 86.09.292 and 1937 c 72 s 98 are each amended to read as follows:

In case any member of the district board is absent at the time of any regular monthly meeting of said board, and a quorum of said board cannot be obtained by reason of the absence of said member, it shall be the duty of the ((~~chairman~~)) chair of the board of county commissioners of the county in which the office of the district board is located to act in place of said absent member, and the acts of the district board at said meeting shall be valid so far as a quorum is concerned and shall have the same effect as though said absent member were present and acting thereat.

Sec. 450. RCW 86.09.301 and 1985 c 396 s 62 are each amended to read as follows:

Every district officer, upon taking office, shall take and subscribe an official oath for the faithful discharge of the duties of his or her office during the term of his or her incumbency.

Sec. 451. RCW 86.09.304 and 1985 c 396 s 63 are each amended to read as follows:

Every district officer or employee handling any district funds shall execute a surety bond payable to the district in the sum of double the estimated amount of funds handled monthly, conditioned that the principal will strictly account for all moneys or credit received by him or her for the use of the district. Each bond and the amount thereof shall be approved by the county legislative authority of the county within which the major portion of the district is situated, and thereafter filed with the secretary of the district.

Sec. 452. RCW 86.09.310 and 1937 c 72 s 104 are each amended to read as follows:

Every person, upon the expiration or sooner termination of his or her term of office as an officer of the district, shall immediately turn over and deliver, under oath, to his or her successor in office, all records, books, papers, and other property under his or her control and belonging to such office. In case of the death of any officer, his or her legal representative shall turn over and deliver such records, books, papers, and other property to the successor in office of such deceased person.

Sec. 453. RCW 86.09.319 and 1937 c 72 s 107 are each amended to read as follows:

Any county treasurer collecting or handling funds of the district shall be liable upon his or her official bond and to criminal prosecution for malfeasance, misfeasance, or nonfeasance in office relative to any of his or her duties prescribed herein.

Sec. 454. RCW 86.09.325 and 1983 c 167 s 201 are each amended to read as follows:

The ex officio district treasurer shall pay out moneys collected or deposited with him or her in behalf of the district, or portions thereof, upon warrants issued by the county auditor against the proper funds of the districts, except the sums to be paid out of the bond fund for interest and principal payments on bonds.

Sec. 455. RCW 86.09.328 and 1937 c 72 s 110 are each amended to read as follows:

The said ex officio district treasurer shall report in writing on or before the fifteenth day of each month to the district board, the amount of money held by him or her, the amount in each fund, the amount of receipts for the month preceding in each fund, and the amount or amounts paid out of each fund, and said report shall be filed with the secretary of the board.

Sec. 456. RCW 86.09.391 and 1985 c 396 s 66 are each amended to read as follows:

The board of appraisers shall elect a member as (~~chairman~~) chair and the secretary of the district or his or her deputy shall be ex officio secretary of the board of appraisers. The appraisers shall receive such compensation and expenses as the board of directors of the district, with the approval of the county legislative authority of the county within which the major portion of the district is situated, shall determine, and which may forthwith be paid by the issuance of district warrants.

Sec. 457. RCW 86.09.430 and 1986 c 278 s 43 are each amended to read as follows:

Said notice of hearing on said determination of assessment ratios shall state that the base assessment map designating the classes in which the lands in the district have been placed for assessment purposes on the ratios authorized by law, has been prepared by the board of appraisers and is on file at the office of the district board and may be inspected at any time during office hours; that a hearing on said map will be held before the county legislative authority at the office of the district board on, the day of,, at the hour of o'clock (naming the time), where any person may appear and present

such objections, if any, he or she may have to said map, and shall be signed by the secretary of the district.

Sec. 458. RCW 86.09.433 and 1985 c 396 s 69 are each amended to read as follows:

At the time set for said hearing the county legislative authority shall be present at the place designated in the notice and if it appears that due notice of the hearing has been given, shall proceed to hear such objections to the base map as shall be presented and shall hear all pertinent evidence that may be offered. The county legislative authority shall have authority to adjourn said hearings from time to time to study the record and evidence presented, to make such independent investigation as it shall deem necessary and to correct, modify, or confirm the things set out on said base map or any part thereof and to determine all questions concerning the matter and shall finally make an order confirming said map with such substitutions, changes, or corrections, if any, as may have been made thereon, which order shall be signed by the ((~~chairman~~)) chair of the county legislative authority and attached to said map.

Sec. 459. RCW 86.09.448 and 1985 c 396 s 71 are each amended to read as follows:

Any person, firm, or corporation feeling aggrieved at any determination by said county legislative authority of the classification or relative percentage of his or her or its lands, aforesaid, may have the same reviewed by a proceeding for that purpose, in the nature of an appeal, initiated in the superior court of the county in which the land affected is situated. The matter shall be heard and tried by the court and shall be informal and summary but full opportunity to be heard and present evidence shall be given before judgment is pronounced.

Sec. 460. RCW 86.09.466 and 1985 c 396 s 75 are each amended to read as follows:

The secretary of the district on or before the first day of November in each year shall estimate the amount of money necessary to be raised for any and all district purposes during the ensuing year based upon a budget furnished him or her by the district board and submit the same to the county legislative authority of the county within which the major portion of the district is situated for its suggestions, approval, and revision and upon the approval of the budget by said county legislative authority, either as originally submitted or as revised, the secretary shall prepare an assessment roll with appropriate headings in which must be listed all the lands in each assessment classification shown on the base assessment map.

Sec. 461. RCW 86.09.493 and 1937 c 72 s 165 are each amended to read as follows:

On or before the fifteenth day of January in each year the secretary must deliver the assessment roll or the respective segregations thereof to the county treasurer of each respective county in which the lands described are located, with a statement of the amounts and/or percentages of the collections on said roll which shall be apportioned to the respective district funds, and said assessments shall become due and payable at the time or times general taxes accrue payable.

One-half of all assessments on said roll shall become delinquent on the first day of June following the filing of the roll unless said one-half is paid on or before the thirty-first day of May of said year, and the remaining one-half shall

become delinquent on the first day of December following, unless said one-half is paid on or before the thirtieth day of November. All delinquent assessments shall bear interest at the rate of ten percent per annum from the date of delinquency until paid.

Within twenty days after the filing of the assessment roll as aforesaid the respective county treasurers shall each publish a notice in a newspaper published in their respective counties in which any portion of the district may lie, that said assessments are due and payable at the office of the county treasurer of the county in which said land is located and will become delinquent unless paid as herein provided. Said notice shall state the dates of delinquency as fixed in this chapter and the rate of interest charged thereon and shall be published once a week for four successive weeks and shall be posted within said period of twenty days in some public place in said district in each county in which any portion of the district is situated.

Upon receiving the assessment roll, the county treasurer shall prepare therefrom an assessment book in which shall be written the description of the land as it appears in the assessment roll, the name of the owner or owners where known, and if assessed to the unknown owners, then the word "unknown", and the total assessment levied against each tract of land. Proper space shall be left in said book for the entry therein of all subsequent proceedings relating to the payment and collection of said assessments.

Upon payment of any assessment the county treasurer must enter the date of said payment in said assessment book opposite the description of the land and the name of the person paying, and give a receipt to such person specifying the amount of the assessment and the amount paid with the description of the property assessed.

It shall be the duty of the county treasurer of the county in which any land in the district is located to furnish upon request of the owner, or any person interested, a statement showing any and all assessments levied as shown by the assessment roll in his or her office upon land described in such request, and all statements of general taxes covering any land in the district shall be accompanied by a statement showing the condition of district assessments against such lands: PROVIDED, That the failure of the county treasurer to render any statement herein required of him or her shall not render invalid any assessments made by any district or proceedings had for the enforcement and collection of district assessments pursuant to this chapter.

Sec. 462. RCW 86.09.496 and 1937 c 72 s 166 are each amended to read as follows:

On or before the thirty-first day of December of each year, the county treasurer of the county in which the land is located shall cause to be posted the delinquency list which must contain the names of persons to whom the property is assessed and a description of the property delinquent and the amount of the assessment and costs due, opposite each name and description.

He or she must append to and post with the delinquency list a notice that unless the assessments delinquent, together with costs and accrued interest, are paid, the real property upon which such assessments are a lien will be sold at public auction. The said notice and delinquent list shall be posted at least twenty days prior to the time of sale. Concurrent as nearly as possible with the date of the posting aforesaid, the said county treasurer shall publish the location of the

place where said notice is posted and in connection therewith a notice that unless delinquent assessments together with costs and accrued interest are paid, the real property upon which such assessments are a lien will be sold at public auction. Such notice must be published once a week for three successive weeks in a newspaper of general circulation published in the county within which the land is located; but said notice of publication need not comprise the delinquent list where the same is posted as herein provided. Both notices must designate the time and place of sale. The time of sale must not be less than twenty-one nor more than twenty-eight days from the date of posting and from the date of the first publication of the notice thereof, and the place must be at some point designated by the treasurer.

Sec. 463. RCW 86.09.499 and 1937 c 72 s 167 are each amended to read as follows:

The treasurer of the county in which the land is situated shall conduct the sale of all lands situated therein and must collect in addition to the assessment due as shown on the delinquent list the costs and expenses of sale and interest at the rate of ten percent per annum from the date or dates of delinquency as hereinbefore provided. On the day fixed for the sale, or some subsequent day to which he or she may have postponed it, and between the hours of ten o'clock a.m. and three o'clock p.m., the county treasurer making the sale must commence the same, beginning at the head of the list, and continuing alphabetically, or in the numerical order of the parcels, lots, or blocks, until completed. He or she may postpone the day of commencing the sale, or the sale from day to day, by giving oral notice thereof at the time of the postponement, but the sale must be completed within three weeks from the first day fixed.

Sec. 464. RCW 86.09.502 and 1937 c 72 s 168 are each amended to read as follows:

The owner or person in possession of any real estate offered for sale for assessments due thereon may designate in writing to the county treasurer, by whom the sale is to be made, and prior to the sale, what portion of the property he or she wishes sold, if less than the whole; but if the owner or possessor does not, then the treasurer may designate it, and the person who will take the least quantity of the land, or in case an undivided interest is assessed, then the smallest portion of the interest, and pay the assessment and costs due, including one dollar to the treasurer for duplicate of the certificate of sale, is the purchaser. The treasurer shall account to the district for said one dollar. If the purchaser does not pay the assessment and costs before ten o'clock a.m. the following day, the property must be resold on the next sale day for the assessments and costs. In case there is no purchaser in good faith for the same on the first day that the property is offered for sale, and if there is no purchaser in good faith when the property is offered thereafter for sale, the whole amount of the property assessed shall be struck off to the district as the purchaser, and the duplicate certificate shall be delivered to the secretary of the district, and filed by him or her in the office of the district. No charge shall be made for the duplicate certificate where the district is the purchaser, and in such case the treasurer shall make an entry, "Sold to the district", and he or she will be credited with the amount thereof in settlement. The district, as a purchaser at said sale, shall be entitled to the same rights as a private purchaser, and may assign or transfer the certificate of sale

upon the payment of the amount which would be due if redemption were being made by the owner. If no redemption is made of land for which the district holds a certificate of purchase, the district will be entitled to receive the treasurer's deed therefor in the same manner as a private person would be entitled thereto.

After receiving the amount of assessments and costs, the county treasurer must make out in duplicate a certificate, dated on the day of sale, stating (when known) the names of the persons assessed, a description of the land sold, the amount paid therefor, that it was sold for assessments, giving the amount and the year of assessment, and specifying the time when the purchaser will be entitled to a deed. The certificate must be signed by the treasurer making the sale and one copy delivered to the purchaser, and the other filed in the office of the county treasurer of the county in which the land is situated: PROVIDED, That upon the sale of any lot, parcel, or tract of land not larger than an acre, the fee for a duplicate certificate shall be twenty-five cents and in case of a sale to a person or a district, of more than one parcel or tract of land, the several parcels or tracts may be included in one certificate.

Sec. 465. RCW 86.09.508 and 1937 c 72 s 170 are each amended to read as follows:

A redemption of the property sold may be made by the owner or any person on behalf and in the name of the owner or by any party in interest at any time before deed issues, by paying the amount of the purchase price and interest as in this chapter provided, and the amount of any assessments which such purchaser may have paid thereon after purchase by him or her and during the period of redemption in this section provided, together with like interest on such amount, and if the district is the purchaser, the redemptioner shall not be required to pay the amount of any district assessment levied subsequent to the assessment for which said land was sold, but all subsequent and unpaid assessments levied upon said land to the date of such redemption shall remain a lien and be payable and the land be subject to sale and redemption at the times applicable to such subsequent annual district assessment. Redemption must be made in legal tender, as provided for the collection of state and county taxes, and the county treasurer must credit the amount paid to the person named in the certificate and pay it on demand to such person or his or her assignees. No redemption shall be made except to the county treasurer of the county in which the land is situated.

Sec. 466. RCW 86.09.511 and 1937 c 72 s 171 are each amended to read as follows:

Upon completion of redemption, the county treasurer to whom redemption has been made shall enter the word "redeemed", the date of redemption and by whom redeemed on the certificate and on the margin of the assessment book where the entry of the certificate is made. If the property is not redeemed within two years, after the fifteenth day of January of the year in which such property was sold, the county treasurer of the county in which the land sold is situated must thereafter, upon demand of the owner of the certificate of sale, make to the purchaser, or his or her assignees a deed of the property, reciting in the deed substantially the matters contained in the certificate, and that no person redeemed the property during the time allowed by law for its redemption. The treasurer shall receive from the purchaser, for the use of the district, one dollar for making such deed: PROVIDED, If redemption is not made of any lot,

parcel, or tract of land not larger than one acre, the fee for a deed shall be twenty-five cents and when any person or district holds a duplicate certificate covering more than one tract of land, the several parcels, or tracts of lands, mentioned in the certificate may be included in one deed.

Sec. 467. RCW 86.09.556 and 1937 c 72 s 186 are each amended to read as follows:

Any claim against the district shall be presented to the district board for allowance or rejection. Upon allowance, the claim shall be attached to a voucher verified by the claimant or his or her agent and approved by the (~~chairman~~) chair of the board and countersigned by the secretary and directed to the county auditor of the county in which the office of the district treasurer is located, for the issuance of a warrant against the proper fund of the district in payment of said claim.

Sec. 468. RCW 86.09.562 and 1986 c 278 s 45 are each amended to read as follows:

Said county treasurer shall pay out the moneys received or deposited with him or her or any portion thereof upon warrants issued by the county auditor of the same county of which the district treasurer is an officer against the proper funds of the district except the sums to be paid out of the special funds for interest and principal payments on bonds or notes.

Sec. 469. RCW 86.09.619 and 1965 c 26 s 12 are each amended to read as follows:

It shall be the duty of the board of directors of the district to make adequate provision for the payment of all district bonds in accordance with their terms by levy and collection of assessments or otherwise and upon its failure so to do said levy and collection of assessments shall be made as follows:

(1) If the annual assessment roll has not been delivered to the county treasurer on or before the fifteenth day of January, he or she shall notify the secretary by registered mail that the roll must be delivered to him or her forthwith.

(2) If the roll is not delivered within ten days from the date of mailing the notice, or if the roll has not been equalized and the levy made, the treasurer shall immediately notify the county commissioners of the county in which the office of the directors is situated, and such commissioners shall cause an assessment roll for the district to be prepared and shall equalize it if necessary, and make the levy in the same manner and with like effect as if it had been made and equalized by the directors, and all expenses incident thereto shall be borne by the district.

(3) In case of neglect or refusal of the secretary to perform his or her duties, the district treasurer shall perform them, and shall be accountable therefor, on his or her official bond, as in other cases.

Sec. 470. RCW 86.09.703 and 1985 c 396 s 86 are each amended to read as follows:

If funds are available the county legislative authority shall, at the expense of the county, refer the petition to the county engineer for a preliminary investigation as to the feasibility of the objects sought by the petition. If the investigation discloses that the matter petitioned for is feasible, conducive to the public welfare, consistent with a comprehensive plan of development and in the best interest of the district and will promote the purposes for which the district

was organized, the county legislative authority shall so find, approve the petition, enter an order in his or her records declaring the establishment of the new boundaries as petitioned for, or as modified by him or her, and file a certified copy of the order with each county auditor, without filing fee, and with the board.

The board shall forthwith cause a review of the classifications and ratio of benefits, in the same manner and with the same effect as for the determination of such matters in the first instance.

The lands in the original district shall remain bound for the whole of the original unpaid assessment thereon for the payment of any outstanding warrants or bonds to be paid by such assessments. Until the assessments are collected and all indebtedness of the original district paid, separate funds shall be maintained for the original district and the revised district.

Sec. 471. RCW 86.13.030 and 1913 c 54 s 3 are each amended to read as follows:

When such a contract shall have been entered into it shall be the duty of each of the boards of county commissioners to make for their respective counties, each year, a tax levy at a rate sufficient to meet the requirements of the contract to be performed by the county, or sufficient to provide such lesser amount as the boards of county commissioners shall agree upon for such year, to be evidenced by separate resolution of each board, and when such levy shall be made the same shall be extended upon the tax rolls of the county levying the same as other taxes shall be extended, and shall be collected in the same manner and shall be a lien upon the property as in the case of other taxes. The fund realized in each county by such tax levy shall go into a separate fund in the treasury of the county collecting the same, to be designated intercounty river improvement fund, and the entire fund so collected in the two counties shall be devoted to and be disbursed for the purposes specified in such contract and as in this chapter provided, and for no other purpose, but without regard to the particular county in which the work is performed, material required or expenditure made, it being the intent that the entire fund realized in the two counties shall be devoted to the one common purpose as if the two counties were one county and the two funds one fund. The fund in each county shall be disbursed by the county treasurer of such county upon warrants signed by the county auditor of that county. Such warrants shall be issued by order of the board of county commissioners of such county, or a majority thereof. Each county auditor shall, whenever requested by the county auditor of the other county, furnish the county auditor of the other county a statement of payments into and warrants drawn upon the fund of his or her county from time to time, and in addition thereto, each county auditor shall on the first Monday of January, April, July and October each year during the life of the contract furnish the other a complete statement thereof. Obligations incurred in the prosecution of such improvement and warrants issued shall be payable only out of said special funds, and no general obligation against or debt of either county shall be created thereby or by any contract entered into by virtue of this chapter, but it is not the intent of this chapter to deny to either county the right to have in the courts any proper proceeding to compel compliance with such contract on the part of the other county.

Sec. 472. RCW 86.13.050 and 1913 c 54 s 5 are each amended to read as follows:

When such a contract shall have been entered into and occasion shall arise for the joint action of the two boards of county commissioners whether such joint action is provided for in this chapter or otherwise desired upon any matter having relation to such contract or the prosecution of such improvement, such joint action may be secured by a notice calling a joint meeting signed by two county commissioners, designating the time and place in either county of such meeting, served by one of the two county auditors upon the remaining county commissioners at least seven days (exclusive of the date of service or mailing) prior to the time so designated. If the notice is signed by two county commissioners of the same county the place of meeting shall be at some place in the other county designated in the notice. Such service may be personal or by mail addressed to the member in care of the county auditor of his or her county. The six county commissioners may constitute a legal meeting without notice by being present together for that purpose. The auditor's certificate of such personal service or mailing, attached to a copy of the notice, shall be made a part of the records of the meeting and be competent proof of the fact. Except in the case hereinafter provided for, the presence of four of the county commissioners shall be necessary to constitute a legal meeting. Each meeting shall be presided over by one of those present selected by vote. The county auditor of the county wherein the meeting is held shall be secretary of the meeting, and shall make duplicate record of its proceedings, one of which, with his or her certificate thereon, shall be forwarded to the county auditor of the other county, and such record shall be a part of the record of the board of county commissioners of each county. A majority vote of those present at any legal meeting shall be determinative upon any question properly considered at the meeting, and shall be binding upon each county as if enacted or adopted by its own board of county commissioners separately, but no joint meeting whatsoever shall in any manner continue, extend, change, alter, modify, or abrogate the contract when made or any of the terms and conditions contained therein. Each county commissioner shall be paid out of said fund in his or her own county all disbursements made by him or her for traveling and other expenses incurred in attending any joint meeting or in any way connected with the prosecution of the improvement. Any legal meeting shall have power to adjourn to another time and place. An adjourned meeting shall have all the powers of the meeting of which it is an adjournment, but shall have no power after the end of the thirtieth day following the date of the original meeting of which it is an adjournment. If the three county commissioners of either county shall fail to attend any two meetings consecutively called, the notice for the next succeeding meeting may be also served upon the special commissioner hereinafter provided for, and if he or she and three county commissioners attend pursuant to such notice the four shall constitute a legal meeting, but if he or she does not so attend and three county commissioners do attend, the same shall constitute a legal meeting: PROVIDED, All notices calling a joint meeting shall specify distinctly and separately each question to be considered at said meeting; and it shall be unlawful to consider any question at such meeting or at any adjourned meeting thereof except those which have been distinctly and separately specified, except in cases where all six county commissioners are present or five county

commissioners present are unanimous on the question, and in any action which may be taken on any question other than those specified in the notice shall be void and shall not be binding on either county, except in cases where all six county commissioners are present or the action was by unanimous vote of five county commissioners present at such meeting.

Sec. 473. RCW 86.13.060 and 1913 c 54 s 6 are each amended to read as follows:

When such a contract shall have been entered into there shall be designated at the first legal joint meeting, or adjournment thereof, held in each calendar year a special commissioner to serve as such until the first joint meeting held in the ensuing year. If such designation shall not be made at any such first annual meeting, the United States engineer in charge of the district in which such improvement is located shall be such special commissioner until the next succeeding first annual meeting. If a special commissioner shall for any reason fail to serve as such officer, or be removed by unanimous vote of any legal meeting, a successor to him or her may be chosen at any subsequent legal joint meeting during his or her term. Such special commissioner shall have power to attend and vote at any joint meeting in the following cases and none other, to wit: (1) In cases specially so provided in RCW 86.13.050 hereof; (2) in any case where the vote of any such joint meeting shall stand equally divided upon any question arising under this chapter or such contract or in the prosecution of the work of improvement. The special commissioner shall have no voice or vote except upon questions on which the vote of the county commissioners is equally divided. The procedure in cases covered by the foregoing subdivision (2) of this section shall be substantially as follows: It shall be the duty of the secretary of the meeting at which the division shall occur, if the attendance of the special commissioner at that meeting is not secured, to forthwith transmit to the special commissioner written notice of the fact of disagreement and the question involved, and of the time and place to which the meeting shall have been adjourned or at which the question will recur. If there shall be no such adjournment of the meeting, or if the secretary shall not give such notice, any two commissioners may in the manner provided in RCW 86.13.050 call a joint meeting for the consideration of the question in dispute, and in such event either county auditor may give such notice to the special commissioner. No informality in the mode of securing the attendance of the special commissioner shall invalidate the proceedings of or any vote taken at any meeting which he or she shall attend and which he or she is empowered to attend by the provisions of this chapter. The special commissioner shall receive, to be paid equally out of the two funds, his or her traveling and other expenses incurred in attending meetings or otherwise in connection with the work of improvement, and such compensation for his or her services as shall be fixed by the joint meeting which shall have selected him or her, or failing to be so fixed, his or her compensation shall be ten dollars per day of actual service.

Sec. 474. RCW 86.13.090 and 1913 c 54 s 9 are each amended to read as follows:

When such a contract shall have been entered into, it shall be lawful to issue warrants upon said fund though there be at the time of such issuance no money in the fund, but in such cases the aggregate of such warrants so issued in any

year shall not exceed one-half the amount of the next annual tax levy required by such contract. Such warrants shall be stamped by the county treasurer when presented to him or her for payment, to bear interest at a certain rate thereafter until paid, such rate to be the then current rate as determined by the county auditor.

Sec. 475. RCW 86.13.100 and 1915 c 103 s 1 are each amended to read as follows:

Whenever two counties of this state, acting under a contract made pursuant to RCW 86.13.010 through 86.13.090, shall make an improvement in connection with the course, channel, or flow of a river, shall acquire property by statute, purchase, gift, or otherwise, said counties, acting through their boards of county commissioners jointly shall have the power, and are hereby authorized to sell, transfer, trade, lease, or otherwise dispose of said property by public or private, negotiation or sale. The deeds to the property so granted, transferred, leased, or sold shall be executed by the (~~chairman~~) chair of the meeting of the joint boards of county commissioners, and attested by the secretary of said joint meeting where the sale is authorized. The proceeds of the sale of said property shall be used by said counties for the carrying on, completion or maintenance of said improvement, as directed by the boards of county commissioners of said counties acting jointly.

Sec. 476. RCW 86.15.060 and 2005 c 127 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, administration of the affairs of zones shall be in the county engineer. The engineer may appoint such deputies and engage such employees, specialists, and technicians as may be required by the zone and as are authorized by the zone's budget. Subject to the approval of the supervisors, the engineer may organize, or reorganize as required, the zone into such departments, divisions, or other administrative relationships as he or she deems necessary to its efficient operation.

(2) In a zone with supervisors elected pursuant to RCW 86.15.050, the supervisors may provide for administration of the affairs of the zone by other than the county engineer, pursuant to the authority established in RCW 86.15.095 to hire employees, staff, and services and to enter into contracts.

Sec. 477. RCW 86.15.130 and 1961 c 153 s 13 are each amended to read as follows:

The treasurer of each zone shall be the county treasurer. He or she shall establish within his or her office a zone flood control fund for each zone into which shall be deposited the proceeds of all tax levies, assessments, gifts, grants, loans, or other revenues which may become available to a zone.

The treasurer shall also establish the following accounts within the zone fund:

(1) For each flood control improvement financed by a bond issue, an account to which shall be deposited the proceeds of any such bond issue; and

(2) An account for each outstanding bond issue to which will be deposited any revenues collected for the retirement of such outstanding bonds or for the payment of interest or charges thereon; and

(3) A general account to which all other receipts of the zone shall be deposited.

Sec. 478. RCW 86.16.035 and 1995 c 8 s 5 are each amended to read as follows:

Subject to RCW 43.21A.068, the department of ecology shall have supervision and control over all dams and obstructions in streams, and may make reasonable regulations with respect thereto concerning the flow of water which he or she deems necessary for the protection to life and property below such works from flood waters.

Sec. 479. RCW 86.24.030 and 1988 c 127 s 39 are each amended to read as follows:

The state director of ecology, when state funds shall be available therefor, shall have authority on behalf of the state to enter into contracts with the United States or any agency thereof and/or with any such flood control district, county, or counties so acting jointly, for flood control purposes for any such flood control district, county, or counties so acting jointly, the amount of the state's participation in any such contract to be such sum as may be appropriated therefor, or, in event of unallocated state appropriations for flood control purposes, in such necessary sum as to any such contract as he or she shall determine.

Sec. 480. RCW 87.03.025 and 1963 c 20 s 13 are each amended to read as follows:

Whenever public lands of the state are situated in or taken into an irrigation district they shall be treated the same as other lands, except as hereinafter provided. The commissioner of public lands shall be served with a copy of the petition proposing to include such lands, together with a map of the district and notice of the time and place of hearing thereon, at least thirty days before the hearing, and if he or she determines that such lands will be benefited by being included in the district he or she shall give his or her consent thereto in writing. If he or she determines that they will not be benefited he or she shall file with the board a statement of his or her objections thereto.

Any public lands of the state which are situated within the boundaries of an irrigation district, but which were not included in the district at the time of its organization, may be included after a hearing as herein provided.

Whenever the commissioner or any interested person desires to have state public lands included in an existing district, he or she shall file a request to that effect in writing with the district board, which shall thereupon fix a time and place for hearing the request and post notice thereof in three public conspicuous places in the district, one of which shall be at the place of hearing, at least twenty days before the hearing, and send by registered mail a copy of the notice to the commissioner. The notice shall describe the lands to be included and direct all persons objecting to such inclusion to appear at the time and place stated and present their objections. At the hearing the district board shall consider all objections and may adjourn to a later date, and by resolution determine the matter, and its determination shall be final: PROVIDED, That no such lands shall be included in a district without the written consent of the commissioner of public lands.

Any public lands of the state situated in any irrigation district shall be subject to the provisions of the laws of this state relating to the collection of irrigation district assessments to the same extent and in the same manner in

which lands of like character held under private ownership are subject thereto, but collection and payment of the assessments shall be governed solely by the provisions of chapter 79.44 RCW.

Sec. 481. RCW 87.03.031 and 1961 c 105 s 2 are each amended to read as follows:

Any qualified district elector who certifies as provided in RCW 87.03.032 through 87.03.034 that he or she cannot conveniently be present to cast his or her ballot at his or her proper election precinct on the day of any irrigation district election shall be entitled to vote by absentee ballot in such election in the manner herein provided.

Sec. 482. RCW 87.03.032 and 1961 c 105 s 3 are each amended to read as follows:

The notice of election shall conform to the requirements for election notices provided by Title 87 RCW for the election being held, and shall specify in addition that any qualified district elector who certifies that he or she cannot conveniently be present at his or her proper election precinct on the day of election may vote by absentee ballot, and that a ballot and form of certificate of qualifications will be furnished to him or her on written request being made of the district's secretary. The requisite ballot and a form of certificate of qualifications shall be furnished by the district's secretary to any person who prior to the date of election makes written request therefor, stating that he or she is a qualified district elector. Such ballot and form may be furnished also to qualified district electors in any way deemed to be convenient without regard to requests having been made therefor.

Sec. 483. RCW 87.03.033 and 1961 c 105 s 4 are each amended to read as follows:

(1) To be counted in a given election, an absentee ballot must conform to these requirements:

(a) It must be sealed in an unmarked envelope and delivered to the district's principal office prior to the close of the polls on the day of that election; or be sealed in an unmarked envelope and mailed to the district's secretary, postmarked not later than midnight of that election day and received by the secretary within five days of that date.

(b) The sealed envelope containing the ballot shall be accompanied by a certificate of qualifications stating, with respect to the voter, his or her name, age, citizenship, residence, that he or she holds title or evidence of title to lands within the district which, under RCW 87.03.045 entitles him or her to vote in the election, and that he or she cannot conveniently be present to cast his or her ballot at his or her proper election precinct on election day.

(c) The statements in the certificate of qualifications shall be certified as correct by the voter by the affixing of his or her signature thereto in the presence of a witness who is acquainted with the voter, and the voter shall enclose and seal his or her ballot in the unmarked envelope in the presence of this witness but without disclosing his or her vote. The witness, by affixing his or her signature to the certificate of qualifications, shall certify that he or she is acquainted with the voter, that in his or her presence the voter's signature was affixed and the ballot enclosed as required in this paragraph.

(2) The form of statement of qualifications and its certification shall be substantially as prescribed by the district's board of directors. This form may also provide that the voter shall describe all or some part of his or her lands within the district which, under RCW 87.03.045 entitles him or her to vote in the election, but a voter otherwise qualified shall not be disqualified because of the absence or inaccuracy of the description so given. The regular form of irrigation district ballot shall be used by absentee voters.

Sec. 484. RCW 87.03.045 and 1985 c 66 s 1 are each amended to read as follows:

In districts with two hundred thousand acres or more, a person eighteen years old, being a citizen of the United States and a resident of the state and who holds title or evidence of title to land in the district or proposed district shall be entitled to vote therein. He or she shall be entitled to one vote for the first ten acres of said land or fraction thereof and one additional vote for all of said land over ten acres. A majority of the directors shall be residents of the county or counties in which the district is situated and all shall be electors of the district. If more than one elector residing outside the county or counties is voted for as director, only that one who receives the highest number of votes shall be considered in ascertaining the result of the election. Where land is community property both the husband and wife may vote if otherwise qualified. An agent of a corporation owning land in the district, duly authorized in writing, may vote on behalf of the corporation by filing with the election officers his or her instrument of authority. An elector resident in the district shall vote in the precinct in which he or she resides, all others shall vote in the precinct nearest their residence.

Sec. 485. RCW 87.03.075 and 1985 c 66 s 4 are each amended to read as follows:

Voting in an irrigation district shall be by ballot. Ballots shall be of uniform size and quality, provided by the district, and for the election of directors shall contain only the names of the candidates who have filed with the secretary of the district a declaration in writing of their candidacy, or a petition of nomination as hereinafter provided, not later than five o'clock p.m. on the first Monday in November. Ballots shall contain space for sticker voting or for the writing in of the name of an undeclared candidate. Ballots shall be issued by the election board according to the number of votes an elector is entitled to cast. A person filing a declaration of candidacy, or petition of nomination as hereinafter provided, shall designate therein the position for which he or she is a candidate. No ballots on any form other than the official form shall be received or counted.

In any election for directors where the number of votes which may be received will have no bearing on the length of the term to be served, the candidates for the position of director, in lieu of filing a declaration of candidacy hereunder, shall file with the secretary of the district a petition of nomination signed by at least ten qualified electors of the district, or of the division if the district has been divided into director divisions, not later than five o'clock p.m. on the first Monday in November. If, after the expiration of the date for filing petitions of nomination, it appears that only one qualified candidate has been nominated thereby for each position to be filled it shall not be necessary to hold an election, and the board of directors shall at their next meeting declare such candidate elected as director. The secretary shall immediately make and deliver

to such person a certificate of election signed by him or her and bearing the seal of the district. The procedure set forth in this paragraph shall not apply to any other irrigation district elections.

Sec. 486. RCW 87.03.080 and 1961 c 192 s 14 are each amended to read as follows:

An election of directors in an irrigation district shall be held on the second Tuesday of December of each year, and the term of each director shall be three years from the first Tuesday of January following his or her election. The directors elected at the organization election shall serve until their successors are elected and qualified. At the first annual election occurring thirty days or more after the date of the order establishing the district, there shall be elected directors to succeed those chosen at the organization election. If the board consists of three directors the candidate receiving the highest number of votes shall serve a term of three years; the next highest, two years; and the next highest, one year. In case of five directors, the two candidates receiving the highest number of votes shall each serve a term of three years; the next two highest, two years; and the next highest, one year; or until successors are elected and qualified. In case of seven directors, the three candidates receiving the highest number of votes shall each serve a term of three years, the next two highest, two years, and the next two highest, one year, or until their successors are elected and qualified. Whenever a district with three directors desires to increase the number of its directors to five directors or whenever a district with five directors desires to increase the number of its directors to seven directors, the board of directors, acting on its own initiative or on the written petition of at least twenty electors of the district, shall submit the question to the electors of the district at a regular or special district election. In the event the electors by a majority of the votes cast favor an increase in the number of directors, there shall be elected at the next annual district election two additional directors. The person receiving the highest number of votes shall serve for a three year term and the next highest, a two year term.

The number of directors may be decreased to five or three, as the case may be, substantially in the same manner as that provided for the increase of directors. In case of three directors the term of one director only shall expire annually.

Sec. 487. RCW 87.03.081 and 1961 c 192 s 15 are each amended to read as follows:

A vacancy in the office of director shall be filled by appointment by the board of county commissioners of the county in which the proceedings for the organization of the district were had. At the next annual election occurring thirty days or more after the date of the appointment, a successor shall be elected who shall take office on the first Tuesday in January following and shall serve for the remainder of the unexpired term.

A director appointed to fill a vacancy occurring after the expiration of the term of a director shall serve until his or her successor is elected and qualified. At the next election of directors occurring thirty days or more after the appointment, a successor shall be elected who shall take office on the first Tuesday in January next and shall serve for the term for which he or she was elected.

Failure on the part of any irrigation district to hold one or more annual elections for selection of officers, or otherwise to provide district officers shall not dissolve the district or impair its powers, where later officers for the district are appointed or elected and qualify as such and exercise the powers and duties of their offices in the manner provided by law.

Sec. 488. RCW 87.03.082 and 1961 c 192 s 16 are each amended to read as follows:

Each director shall take and subscribe an official oath for the faithful discharge of the duties of his or her office, and shall execute a bond to the district in the sum of one thousand dollars, conditioned for the faithful discharge of his or her duties, which shall be approved by the judge of the superior court of the county where the district was organized, and the oath and bond shall be recorded in the office of the county clerk of that county and filed with the secretary of the board of directors. The secretary shall take and subscribe a written oath of office and execute a bond in the sum of not less than one thousand dollars to be fixed by the directors, which shall be approved and filed as in the case of the bond of a director. If a district is appointed fiscal agent of the United States to collect money for it, the secretary and directors and the district treasurer shall each execute such additional bonds as the secretary of the interior may require, conditioned for the faithful discharge of their duties which shall be approved, recorded, and filed as other official bonds. All such bonds shall be secured at the cost of the district.

Sec. 489. RCW 87.03.090 and 1931 c 60 s 1 are each amended to read as follows:

The inspector is (~~(chairman)~~) chair of the election board, and may

First: Administer all oaths required in the progress of an election.

Second: Appoint judges and clerks, if, during the progress of the election, any judge or clerk cease to act. Any member of the board of election, or any clerk thereof, may administer and certify oaths required to be administered during the progress of an election. The board of election for each precinct may, if they deem it necessary, before opening the polls, appoint two persons to act as clerks of the election. Before opening the polls, each member of the board and each clerk must take and subscribe an oath to faithfully perform the duties imposed upon them by law. Any elector of the precinct may administer and certify such oath. The polls must be opened at one o'clock p.m. on the afternoon of the election, and be kept open until eight o'clock p.m., when the same must be closed. The provisions of the general election law of this state, concerning the form of ballots to be used shall not apply to elections held under this act: PROVIDED, That any district elections called before this act shall take effect shall be noticed and conducted in the manner prescribed by law in effect at the time the election is called.

Sec. 490. RCW 87.03.100 and 1981 c 345 s 2 are each amended to read as follows:

As soon as all the votes are read off and counted, a certificate shall be drawn upon each of the papers containing the poll list and tallies, or attached thereto, stating the number of votes each one voted for has received, and designating the office to fill which he or she was voted for, which number shall be written in figures and in words at full length. Each certificate shall be signed by the

~~((clerk[s]))~~ clerks, ~~((judge[s]))~~ judges, and the inspector. One of said certificates, with the poll list and the tally paper to which it is attached, shall be retained by the inspector, and preserved by him or her at least six months. The ballots, together with the other of said certificates, with the poll list and tally paper to which it is attached, shall be sealed by the inspector, in the presence of the judges and clerks, and endorsed "Election returns of [naming the precinct] precinct," and be directed to the secretary of the board of directors, and shall be immediately delivered by the inspector, or by some other safe and responsible carrier designated by said inspector, to said secretary, and the ballots shall be kept unopened for at least six months, and if any person be of the opinion that the vote of any precinct has not been correctly counted, he or she may appear on the day appointed for the board of directors to open and canvass the returns, and demand a recount of the vote of the precinct that is so claimed to have been incorrectly counted.

Sec. 491. RCW 87.03.110 and 1913 c 165 s 4 are each amended to read as follows:

The secretary of the board of directors must, as soon as the result is declared, enter in the records of such board a statement of such result, which statement must show:

- (1) The whole number of votes cast in the district;
- (2) The name of the persons voted for;
- (3) The office to fill which each person was voted for;
- (4) The number of votes given in each precinct to each of such persons;
- (5) The number of votes given in each precinct for and against any proposition voted upon.

The board of directors must declare elected the person having the highest number of votes given for each office. The secretary must immediately make out, and deliver to such person a certificate of election signed by him or her and authenticated by the seal of the district.

Sec. 492. RCW 87.03.115 and 1983 c 262 s 1 are each amended to read as follows:

The directors of the district shall organize as a board and shall elect a president from their number, and appoint a secretary, who shall keep a record of their proceedings. The office of the directors and principal place of business of the district shall be at some place in the county in which the organization was effected, to be designated by the directors. The directors serving districts of five thousand acres or more shall hold a regular monthly meeting at their office on the first Tuesday in every month, or on such other day in each month as the board shall direct in its bylaws, and may adjourn any meeting from time to time as may be required for the proper transaction of business. Directors serving districts of less than five thousand acres shall hold at least quarterly meetings on a day designated by the board's bylaws, and may adjourn any meeting from time to time as may be required for the proper transaction of business. Special meetings shall be called and conducted in the manner required by chapter 42.30 RCW. All meetings of the directors must be public. A majority of the directors shall constitute a quorum for the transaction of business, and in all matters requiring action by the board there shall be a concurrence of at least a majority of the directors. All records of the board shall be open to the inspection of any

electors during business hours. The board shall have the power, and it shall be its duty, to adopt a seal of the district, to manage and conduct the business and affairs of the district, to make and execute all necessary contracts, to employ and appoint such agents, officers, and employees as may be necessary and prescribe their duties, and to establish equitable bylaws, rules, and regulations for the government and management of the district, and for the equitable distribution of water to the lands within the district, upon the basis of the beneficial use thereof, and generally to perform all such acts as shall be necessary to fully carry out the provisions of this chapter: PROVIDED, That all water, the right to the use of which is acquired by the district under any contract with the United States shall be distributed and apportioned by the district in accordance with the acts of congress, and rules and regulations of the secretary of the interior until full reimbursement has been made to the United States, and in accordance with the provisions of said contract in relation thereto. The bylaws, rules, and regulations must be on file and open to inspection of any elector during regular business hours. All leases, contracts, or other form of holding any interest in any state or other public lands shall be, and the same are hereby declared to be title to and evidence of title to lands and for all purposes within this act, shall be treated as the private property of the lessee or owner of the contractual or possessory interest: PROVIDED, That nothing in this section shall be construed to affect the title of the state or other public ownership, nor shall any lien for such assessment attach to the fee simple title of the state or other public ownership. The board of directors shall have authority to develop and to sell, lease, or rent the use of: (1) Water derived from the operation of the district water facilities to such municipal and quasi municipal entities, the state of Washington, and state entities and agencies, public and private corporations and individuals located within and outside the boundaries of the district and on such terms and conditions as the board of directors shall determine; and (2) power derived from hydroelectric facilities authorized by RCW 87.03.015(1) as now or hereafter amended, to such municipal or quasi municipal corporations and cooperatives authorized to engage in the business of distributing electricity, electrical companies subject to the jurisdiction of the utilities and transportation commission, and other irrigation districts and on such terms and conditions as the board of directors shall determine: PROVIDED, No water shall be furnished for use outside of said district until all demands and requirements for water for use in said district are furnished and supplied by said district: AND PROVIDED FURTHER, That as soon as any public lands situated within the limits of the district shall be acquired by any private person, or held under any title of private ownership, the owner thereof shall be entitled to receive his or her proportion of water as in case of other land owners, upon payment by him or her of such sums as shall be determined by the board, and at the time to be fixed by the board, which sums shall be such equitable amount as such lands should pay having regard to placing said lands on the basis of equality with other lands in the district as to benefits received, and giving credit if equitable for any sums paid as water rent by the occupant of said lands prior to the vesting of private ownership, and such lands shall also become subject to all taxes and assessments of the district thereafter imposed.

Sec. 493. RCW 87.03.175 and 1923 c 138 s 7 are each amended to read as follows:

Said director shall forthwith consider said certified report and if he or she deem it advisable make, through the appropriate divisions of his or her department, additional studies of the project at the expense of the district, and as soon as practicable thereafter, but in any event within ninety days from the receipt of said certified report, make his or her findings and submit the same to the district board.

Sec. 494. RCW 87.03.180 and 1923 c 138 s 7 are each amended to read as follows:

In his or her findings said state director shall give generally his or her conclusions regarding the supply of water available for the project, the nature of the soil proposed to be irrigated and its susceptibility to irrigation, the duty of water for irrigation and the probable need of drainage, the probable cost of works, water rights, and other property necessary for the project, the conditions of land settlement therein, and the proper amount and dates of maturity of the bonds proposed to be issued, and such other matters as he or she deems pertinent to the success of the project, provided that said findings and conclusions shall be advisory only and shall not be binding upon the directors of the irrigation district.

Sec. 495. RCW 87.03.245 and 1919 c 180 s 8 are each amended to read as follows:

The board of directors must allow the secretary as many deputies, to be appointed by them, as will, in the judgment of the board, enable him or her to complete the assessment within the time herein prescribed. The board must fix the compensation of such deputies for the time actually engaged.

Sec. 496. RCW 87.03.250 and 1921 c 129 s 12 are each amended to read as follows:

On or before the first Tuesday in September in each year to and including the year 1923, and on or before the first Tuesday in November beginning with the year 1924 and each year thereafter, the secretary must complete his or her assessment roll and deliver it to the board, who must immediately give a notice thereof, and of the time the board of directors, acting as a board of equalization will meet to equalize assessments, by publication in a newspaper published in each of the counties comprising the district. The time fixed for the meeting shall not be less than twenty nor more than thirty days from the first publication of the notice, and in the meantime the assessment roll must remain in the office of the secretary for the inspection of all persons interested.

Sec. 497. RCW 87.03.255 and 1921 c 129 s 13 are each amended to read as follows:

Upon the day specified in the notice required by RCW 87.03.250 for the meeting, the board of directors, which is hereby constituted a board of equalization for that purpose, shall meet and continue in session from day to day as long as may be necessary, not to exceed ten days, exclusive of Sundays, to hear and determine such objections to the said assessment roll as may come before them; and the board may change the same as may be just. The secretary of the board shall be present during its session, and note all changes made at said hearing; and on or before the 30th day of October in each year to and including the year 1923, and on or before the 15th day of January beginning with the

((year)) year 1925 and each year thereafter he or she shall have the assessment roll completed as finally equalized by the board.

Sec. 498. RCW 87.03.260 and 1983 c 167 s 216 are each amended to read as follows:

The board of directors shall in each year before said roll is delivered by the secretary to the respective county treasurers, levy an assessment sufficient to raise the ensuing annual interest on the outstanding bonds, and all payments due or to become due in the ensuing year to the United States or the state of Washington under any contract between the district and the United States or the state of Washington accompanying which bonds of the district have not been deposited with the United States or the state of Washington as in this act provided. Beginning in the year preceding the maturity of the first series of the bonds of any issue, the board must from year to year increase said assessment for the ensuing years in an amount sufficient to pay and discharge the outstanding bonds as they mature. Similar levy and assessment shall be made for the expense fund which shall include operation and maintenance costs for the ensuing year. The board shall also at the time of making the annual levy, estimate the amount of all probable delinquencies on said levy and shall thereupon levy a sufficient amount to cover the same and a further amount sufficient to cover any deficit that may have resulted from delinquent assessments for any preceding year. The board shall also, at the time of making the annual levy, estimate the amount of the assessments to be made against lands owned by the district, including local improvement assessments, and shall levy a sufficient amount to pay said assessments. All lands owned by the district shall be exempt from general state and county taxes: PROVIDED, HOWEVER, That in the event any lands, and any improvements located thereon, acquired by the district by reason of the foreclosure of irrigation district assessments, shall be by said district resold on contract, then and in that event, said land, and any such improvements, shall be by the county assessor immediately placed upon the tax rolls for taxation as real property and shall become subject to general property taxes from and after the date of said contract, and the secretary of the said irrigation district shall be required to immediately report such sale within ten days from the date of said contract to the county assessor who shall cause the property to be entered on the tax rolls as of the first day of January following.

The board may also at the time of making the said annual levy, levy an amount not to exceed twenty-five percent of the whole levy for the said year for the purpose of creating a surplus fund. This fund may be used for any of the district purposes authorized by law. The assessments, when collected by the county treasurer, shall constitute a special fund, or funds, as the case may be, to be called respectively, the "Bond Fund of Irrigation District," the "Contract Fund of Irrigation District," the "Expense Fund of Irrigation District," the "Warrant Fund of Irrigation District," the "Surplus Fund of Irrigation District".

If the annual assessment roll of any district has not been delivered to the county treasurer on or before the 15th day of January in the year 1927, and in each year thereafter, he or she shall notify the secretary of the district by registered mail that said assessment roll must be delivered to the office of the county treasurer forthwith. If said assessment roll is not delivered within ten days from the date of mailing of said notice to the secretary of the district, or if

said roll when delivered is not equalized and the required assessments levied as required by law, or if for any reason the required assessment or levy has not been made, the county treasurer shall immediately notify the legislative authority of the county in which the office of the board of directors is situated, and said county legislative authority shall cause an assessment roll for the said district to be prepared and shall equalize the same if necessary and make the levy required by this chapter in the same manner and with like effect as if the same had been equalized and made by the said board of directors, and all expenses incident thereto shall be borne by the district. In case of neglect or refusal of the secretary of the district to perform the duties imposed by law, then the treasurer of the county in which the office of the board of directors is situated must perform such duties, and shall be accountable therefor, on his or her official bond, as in other cases.

At the time of making the annual levy in the year preceding the final maturity of any issue of district bonds, the board of directors shall levy a sufficient amount to pay and redeem all bonds of said issue then remaining unpaid. All surplus remaining in any bond fund after all bonds are paid in full must be transferred to the surplus fund of the district.

Any surplus moneys in the surplus fund or any surplus moneys in the bond fund when so requested by the board of directors shall be invested by the treasurer of said county under the direction of said board of directors in United States bonds or bonds of the state of Washington, or any bonds pronounced by the treasurer of the state of Washington as valid security for the deposit of public funds, and in addition thereto any bonds or warrants of said district, all of which shall be kept in the surplus fund until needed by the district for the purposes authorized by law.

Sec. 499. RCW 87.03.270 and 2009 c 350 s 6 are each amended to read as follows:

The assessment roll, before its equalization and adoption, shall be checked and compared as to descriptions and ownerships, with the county treasurer's land rolls. On or before the fifteenth day of January in each year the secretary must deliver the assessment roll or the respective segregation thereof to the county treasurer of each respective county in which the lands therein described are located, and said assessments shall become due and payable after the county treasurer has completed the property tax roll for the current year's collection and provided the notification required by RCW 84.56.020.

All assessments on said roll shall become delinquent on the first day of May following the filing of the roll unless the assessments are paid on or before the thirtieth day of April of said year: PROVIDED, That if an assessment is ten dollars or more for said year and if one-half of the assessment is paid on or before the thirtieth day of April, the remainder shall be due and payable on or before the thirty-first day of October following and shall be delinquent after that date. All delinquent assessments shall bear interest at the rate of twelve percent per annum, computed on a monthly basis and without compounding, from the date of delinquency until paid.

Upon receiving the assessment roll the county treasurer shall prepare therefrom an assessment book in which shall be written the description of the land as it appears in the assessment roll, the name of the owner or owners where known, and if assessed to the unknown owners, then the word "unknown", and

the total assessment levied against each tract of land. Proper space shall be left in said book for the entry therein of all subsequent proceedings relating to the payment and collection of said assessments.

On or before April 1st of each year, the treasurer of the district shall send a statement of assessments due. County treasurers who collect irrigation district assessments may send the statement of irrigation district assessments together with the statement of general taxes.

Upon payment of any assessment the county treasurer must enter the date of said payment in said assessment book opposite the description of the land and the name of the person paying and give a receipt to such person specifying the amount of the assessment and the amount paid with the description of the property assessed.

It shall be the duty of the treasurer of the district to furnish upon request of the owner, or any person interested, a statement showing any and all assessments levied as shown by the assessment roll in his or her office upon land described in such request. All statements of irrigation district assessments covering any land in the district shall show the amount of the irrigation district assessment, the dates on which the assessment is due, the place of payment, and, if the property was sold for delinquent assessments in a prior year, the amount of the delinquent assessment and the notation "certificate issued": PROVIDED, That the failure of the treasurer to render any statement herein required of him or her shall not render invalid any assessments made by any irrigation district.

It shall be the duty of the county treasurer of any county, other than the county in which the office of the board of directors is located, to make monthly remittances to the county treasurer of the county in which the office of the board of directors is located covering all amounts collected by him or her for the irrigation district during the preceding month.

When the treasurer collects a delinquent assessment, the treasurer shall collect any other amounts due by reason of the delinquency, including accrued costs, which shall be deposited to the treasurer's operation and maintenance fund.

Sec. 500. RCW 87.03.272 and 1982 c 102 s 2 are each amended to read as follows:

Notwithstanding the provisions of RCW 87.03.260, 87.03.270, 87.03.440, and 87.03.445, the board of directors of any district acting as fiscal agent for the United States or the state of Washington for the collection of any irrigation charges may authorize the secretary of the district to act as the exclusive collection agent for the collection of all nondelinquent irrigation assessments of the district pursuant to such rules and regulations as the board of directors may adopt.

When the secretary acts as collection agent, his or her official bond shall be of a sufficient amount as determined by the board of directors of the district to cover any amounts he or she may be handling while acting as collection agent, in addition to any other amount required by reason of his or her other duties.

The assessment roll of such district shall be delivered to the county treasurer in accordance with the provisions of RCW 87.03.260 and 87.03.270 and the assessment roll shall be checked and verified by the county treasurer as provided in RCW 87.03.270.

After the assessment roll has been checked and verified by the county treasurer, the secretary of the district shall proceed to publish the notice as required under RCW 87.03.270; except that the notice shall provide that until the assessments and tolls become delinquent on November 1st they shall be due and payable in the office of the secretary of the district.

When the secretary of such district receives payments, he or she shall issue a receipt for such payments and shall be accountable on his or her official bond for the safekeeping of such funds and shall remit the same, along with an itemized statement of receipts, at least once each month to the county treasurer wherein the land is located on which the payment was made.

When the county treasurer receives the monthly statement of receipts from the secretary, he or she shall enter the payments shown thereon on the assessment roll maintained in his or her office.

On the fifteenth day of November of each year it shall be the duty of the secretary to transmit to the county treasurer the delinquency list which shall include the names, amounts, and such other information as the county treasurer shall require, and thereafter the secretary shall not accept any payment on the delinquent portion of any account. Upon receipt of the list of delinquencies, the county treasurer shall proceed under the provisions of this chapter as though he or she were the collection agent for such district to the extent of such delinquent accounts.

Sec. 501. RCW 87.03.280 and 1925 c 3 s 1 are each amended to read as follows:

Where any district under contract with the United States has levied any assessment for the collection of money payable to the United States under such contract, and the secretary of the interior has by agreement with the board of directors of said district, authorized the extension or cancellation of any payments due to the United States by the cancellation of assessments already levied therefor but remaining unpaid, the board of directors of such district shall certify to the county treasurer of the county in which the land is located, a statement of the year and amounts assessed against each tract for which such cancellation has been authorized, and the county treasurer, upon receipt of such certificate, shall, in all cases where the assessment remains unpaid and the lands have not been sold, endorse upon the district's assessment roll, "Corrected under Certificate of Board of Directors" and shall deduct and cancel from the assessment against each such tract the amount of such assessment so authorized to be canceled; and in all cases where such cancellations have been certified to the county treasurer after such lands assessed have been sold and before the period of redemption shall have expired, the county treasurer shall, in those cases where the tract assessed has been sold to the district, and the district is the owner of the certificate of sale, require the district to surrender its certificate of sale and shall thereupon deduct the amount of such cancellation plus the penalties thereon upon the original assessment roll with an endorsement, "Corrected under Certificate of Board of Directors" and he or she shall thereupon issue to the district in lieu of the certificate surrendered, a substitute certificate of sale for the corrected amount of such assessment, if any, remaining uncanceled, and shall file a copy thereof in the office of the county auditor as in the case of the original certificate surrendered, and such substitute certificate shall entitle the holder thereof to all rights possessed under the original

certificate so corrected as to amount: PROVIDED, HOWEVER, That such cancellation shall have the same effect as though the lands had originally not been assessed for the amounts so deducted and shall not operate to bar the district of the right in making subsequent annual assessments to levy and collect against such tracts the amount of any money due the United States, including the amount of any assessments so canceled.

Sec. 502. RCW 87.03.440 and 1996 c 320 s 18 and 1996 c 214 s 1 are each reenacted and amended to read as follows:

The treasurer of the county in which is located the office of the district shall be ex officio treasurer of the district, and any county treasurer handling district funds shall be liable upon his or her official bond and to criminal prosecution for malfeasance and misfeasance, or failure to perform any duty as county or district treasurer. The treasurer of each county in which lands of the district are located shall collect and receipt for all assessments levied on lands within his or her county. There shall be deposited with the district treasurer all funds of the district. The district treasurer shall pay out such funds upon warrants issued by the county auditor against the proper funds of the district, except the sums to be paid out of the bond fund for interest and principal payments on bonds: PROVIDED, That in those districts which designate their own treasurer, the treasurer may issue the warrants or any checks when the district is authorized to issue checks. All warrants shall be paid in the order of their issuance. The district treasurer shall report, in writing, on the first Monday in each month to the directors, the amount in each fund, the receipts for the month preceding in each fund, and file the report with the secretary of the board. The secretary shall report to the board, in writing, at the regular meeting in each month, the amount of receipts and expenditures during the preceding month, and file the report in the office of the board.

The preceding paragraph of this section notwithstanding, the board of directors or board of control of an irrigation district which lies in more than one county and which had assessments in each of two of the preceding three years equal to at least five hundred thousand dollars, or a board of joint control created under chapter 87.80 RCW, may designate some other person having experience in financial or fiscal matters as treasurer of the district. In addition, the board of directors of an irrigation district which lies entirely within one county may designate some other person having experience in financial or fiscal matters as treasurer of the district if the district had assessments, tolls, and miscellaneous collections in each of two of the preceding three years equal to at least two million dollars or if the board has the approval of the county treasurer to designate some other person. If a board designates a treasurer, it shall require a bond with a surety company authorized to do business in the state of Washington in an amount of two hundred fifty thousand dollars conditioned that he or she will faithfully perform the duties of his or her office as treasurer of the district. The premium on the bond shall be paid by the district. The designated treasurer shall collect and receipt for all irrigation district assessments on lands within the district and shall act with the same powers and duties and be under the same restrictions as provided by law for county treasurers acting in matters pertaining to irrigation districts, except the powers, duties, and restrictions in RCW 87.56.110 and 87.56.210 which shall continue to be those of county treasurers.

In those districts which have designated their own treasurers, the provisions of law pertaining to irrigation districts which require certain acts to be done and which refer to and involve a county treasurer or the office of a county treasurer or the county officers charged with the collection of irrigation district assessments, except RCW 87.56.110 and 87.56.210 shall be construed to refer to and involve the designated district treasurer or the office of the designated district treasurer.

Any claim against the district for which it is liable under existing laws shall be presented to the board as provided in RCW 4.96.020 and upon allowance it shall be attached to a voucher and approved by the (~~chairman~~) chair and signed by the secretary and directed to the proper official for payment: PROVIDED, That in the event claimant's claim is for crop damage, the claimant in addition to filing his or her claim within the applicable period of limitations within which an action must be commenced and in the manner specified in RCW 4.96.020 must file with the secretary of the district, or in the secretary's absence one of the directors, not less than three days prior to the severance of the crop alleged to be damaged, a written preliminary notice pertaining to the crop alleged to be damaged. Such preliminary notice, so far as claimant is able, shall advise the district; that the claimant has filed a claim or intends to file a claim against the district for alleged crop damage; shall give the name and present residence of the claimant; shall state the cause of the damage to the crop alleged to be damaged and the estimated amount of damage; and shall accurately locate and describe where the crop alleged to be damaged is located. Such preliminary notice may be given by claimant or by anyone acting in his or her behalf and need not be verified. No action may be commenced against an irrigation district for crop damages unless claimant has complied with the provisions of RCW 4.96.020 and also with the preliminary notice requirements of this section.

Sec. 503. RCW 87.03.442 and 1961 c 276 s 4 are each amended to read as follows:

The secretary or other authorized person shall issue receipts for all moneys received for deposit in such funds and he or she and any other person handling the funds shall furnish a surety bond to be approved by the board and the attorney for the district, in such amount as the board may designate and conditioned for the safekeeping of such funds and the premium thereon shall be paid by the district.

Upon depositing any district funds the secretary shall demand and the depository bank shall furnish a surety bond, to be approved by the board and the attorney, in an amount equal to the maximum deposit, conditioned for the prompt payment of the deposits upon demand, and the bond shall not be canceled during the time for which it was written. Or the depository may deposit with the secretary or in some bank to the credit of the district in lieu of the bond, securities approved by the board of a market value in an amount not less than the amount of the maximum deposit. All depositories which have qualified for insured deposits under any federal deposit insurance act need not furnish bonds or securities, except for so much of the deposit as is not so insured.

Sec. 504. RCW 87.03.570 and 1889-90 p 695 s 50 are each amended to read as follows:

The board of directors, at the time and place mentioned in said notice, or at such other time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition and all the objections thereto presented in writing by any person showing cause, as aforesaid, why said proposed change of the boundaries of the district should not be made. The failure by any person interested in said district, or in the matter of the proposed change of its boundaries, to show cause in writing, as aforesaid, shall be deemed and taken as an assent on his or her part to a change of the boundaries of the district as prayed for in said petition, or to such a change thereof as will include a part of said lands. And the filing of such petition with said board, as aforesaid, shall be deemed and taken as an assent on the part of each and all of such petitioners to such a change of said boundaries that they may include the whole or any portion of the lands described in said petition.

Sec. 505. RCW 87.03.610 and 1889-90 p 698 s 58 are each amended to read as follows:

A guardian, an executor or administrator of an estate, who is appointed as such under the laws of this state, and who, as such guardian, executor or administrator, is entitled to the possession of the lands belonging to the estate which he or she represents, may, on behalf of his or her ward or the estate which he or she represents, upon being thereunto authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act mentioned, why the boundaries of the district should not be changed.

Sec. 506. RCW 87.03.660 and 1921 c 129 s 38 are each amended to read as follows:

The board of directors, at the time and place mentioned in the notice, or at the time or times to which the hearing of said petition may be adjourned, shall proceed to hear the petition, and all objections thereto presented in writing, by any person showing cause, as aforesaid, why the prayer of said petition should not be granted. The failure of any person interested in said district or consolidated district to show cause, in writing, why the tract or tracts of land mentioned in said petition should not be excluded from said district, or the former district mentioned should not be excluded from the consolidated district, as the case may be, shall be deemed and taken as an assent by him or her to such exclusion, and the filing of such petition with such board, as aforesaid, shall be deemed and taken as an assent by each and all of such petitioners to such exclusion.

Sec. 507. RCW 87.03.690 and 1889-90 p 703 s 71 are each amended to read as follows:

A guardian, and executor or an administrator of an estate who is appointed as such under the laws of this state, and who, as such guardian, executor or administrator, is entitled to the possession of the lands belonging to the estate which he or she represents, may, on behalf of his or her ward or the estate which he or she represents, upon being thereto properly authorized by the proper court, sign and acknowledge the petition in this act mentioned, and may show cause, as in this act provided, why the boundaries of the district should not be changed.

Sec. 508. RCW 87.03.760 and 1988 c 202 s 86 are each amended to read as follows:

At the conclusion, or final adjournment, of the hearing provided for in RCW 87.03.755, the board of directors of the district shall have the power, by unanimous resolution to adopt the proposed plan, or such modification thereof as may be determined by the board, and reduce the boundaries of the district to such area as, in the judgment of the board, can be furnished with sufficient water for successful irrigation by the irrigation system of the district, and to exclude from the district all lands lying outside of such reduced boundaries, and provide for the repayment to the owners of any such excluded lands, respectively, of any sums paid for assessments levied by the district, and to cancel all unpaid assessments levied by the district against the lands excluded and release such lands from further liability therefor. Any person interested and feeling himself or herself aggrieved by the adoption of such final resolution reducing the boundaries of the district and excluding lands therefrom, shall have a right of appeal from the action of the board to the superior court of the county in which the district is situated, which appeal may be taken in the manner provided by law for appeals from justices' courts, and if upon the hearing of such appeal it shall be determined by the court that the irrigation system of the district will not furnish sufficient water for the successful irrigation of the lands included within the reduced boundaries of the district, or that any lands have been excluded from the district unnecessarily, arbitrarily, capriciously, or fraudulently or without substantial reason for such exclusion, the court shall enter a decree canceling and setting aside the proceedings of the board of directors, otherwise the court shall enter a decree confirming the action of the board. Any party to the proceedings on appeal in the superior court, feeling himself or herself aggrieved by the decree of the superior court confirming the action of the board of directors of the district reducing the boundaries of the district and excluding lands therefrom, may seek appellate review within thirty days after the entry of the decree of the superior court in the manner provided by law. If, at the expiration of thirty days from the entry of the final resolution of the board of directors of the district reducing the boundaries of the district and excluding lands therefrom, no appeal has been taken to the superior court of the county in which the district is situated, or if, after hearing upon appeal the superior court shall confirm the action of the district, and at the expiration of thirty days from the entry of such decree, no appellate review is sought, the boundaries of the district shall thereafter be in accordance with the resolution of the board reducing the boundaries, and all lands excluded from the district by such resolution shall be relieved from all further liability for any indebtedness of the district or any unpaid assessments theretofore levied against such lands, and the owners of excluded lands, upon which assessments have been paid, shall be entitled to warrants of the district for all sums paid by reason of such assessments, payable from a special fund created for that purpose, for which levies shall be made upon the lands remaining in the district, as the board of directors may provide.

Sec. 509. RCW 87.03.765 and 1988 c 202 s 87 are each amended to read as follows:

Whenever it shall appear, to the satisfaction of the director of ecology, that the irrigation system of any irrigation district, to which the department of ecology of the state of Washington under a contract with the district for the purchase of its bonds, has advanced funds for the purpose of constructing an irrigation system for the district, has been found incapable of furnishing

sufficient water for the successful irrigation of all of the lands of such district, and that the board of directors of such district has reduced the boundaries thereof and excluded from the district, as provided in RCW 87.03.750 through 87.03.760, sufficient lands to render such irrigation system adequate for the successful irrigation of the lands of the district, and that more than thirty days have elapsed since the adoption of the resolution by the board of directors reducing the boundaries of the district and excluding lands therefrom, and no appeal has been taken from the action of the board, or that the action of the board has been confirmed by the superior court of the county in which the district is situated and no appeal has been taken to the supreme court or the court of appeals, or that upon review by the supreme court or the court of appeals the action of the board of directors of the district has been confirmed, the director of ecology shall be and he or she is hereby authorized to cancel and reduce the obligation of the district to the department of ecology, for the repayment of moneys advanced for the construction of an irrigation system for the district, to such amount as, in his or her judgment, the district will be able to pay from revenues derived from assessments upon the remaining lands of the district, and to accept, in payment of the balance of the obligation of the district, the authorized bonds of the district, in numerical order beginning with the lowest number, on the basis of the percentage of the face value thereof fixed in contracts between the district and the department of ecology, in an amount equal to said balance of the obligation of the district, in full and complete satisfaction of all claims of the department of ecology against the district.

Sec. 510. RCW 87.03.820 and 1973 c 150 s 1 are each amended to read as follows:

Whenever as the result of abandonment of an irrigation district right-of-way real property held by an irrigation district is to be sold or otherwise disposed of, notice shall be given to the owners of lands adjoining that real property and such owners shall have a right of first refusal to purchase at the appraised price all or any part of the real property to be sold or otherwise disposed of which adjoins or is adjacent to their land.

Real property to be sold or otherwise disposed of under this section shall have been first appraised by the county assessor or by a person designated by him or her.

Notice under this section shall be sufficient if sent by registered mail to the owner, and at the address, as shown in the tax records of the county in which the land is situated. Notice under this section shall be in addition to any other notice required by law.

After sixty days from the date of sending of notice, if no applications for purchase have been received by the irrigation district or other person or entity sending notice, the rights of first refusal of owners of adjoining lands shall be deemed to have been waived, and the real property may be sold or otherwise disposed of.

If two or more owners of adjoining lands apply to purchase the same real property, or apply to purchase overlapping parts of the real property, the respective rights of the applicants may be determined in the superior court of the county in which the real property is situated; and the court may divide the real property in question between some or all of the applicants or award the whole to one applicant, as justice may require.

Any sale or other disposal of real property pursuant to chapters 87.52, 87.53, and 87.56 RCW shall be made in accordance with the requirements of this section.

Sec. 511. RCW 87.04.010 and 1961 c 192 s 1 are each amended to read as follows:

An irrigation district comprising two hundred thousand or more acres, or irrigation districts comprising less than two hundred thousand acres which have followed the optional procedure specified in this amendatory act, shall be divided into divisions of as nearly equal area as practical, consistent with being fair and equitable to the electors of the district. The number of divisions shall be the same as the number of directors, which shall be numbered first, second, third, etc. One director, who shall be an elector of the division, shall be elected for each division of the district by the electors of his or her division. A district elector shall be considered an elector of the division in which he or she holds title to or evidence of title to land. An elector holding title to or evidence of title to land in more than one division shall be considered an elector of the division nearest his or her place of residence.

Sec. 512. RCW 87.22.065 and 1929 c 120 s 7 are each amended to read as follows:

Said notice shall state that the district (naming it) proposes to issue and dispose of a refunding bond issue specifying the amount; that proceedings have been instituted in the superior court of the state of Washington in and for the specified county to determine the maximum benefits to be received by the lands within the operation of said district from the issuance and disposal of said proposed bond issue, and further to determine the irrigable acreage which will be assessed for the payment of said bonds, shall state that a schedule of the lands involved together with a statement of the amount of maximum benefits received by the amount of irrigable acreage in each respectively, is on file in said proceedings and may be inspected by any interested person, shall state the time and place fixed for the hearing of the petition and shall state that any person interested in such proceedings may on or before the day fixed for said hearing file his or her written objections thereto with the clerk of said court, or he or she will be forever bound by such orders as the court shall make in such proceedings.

Sec. 513. RCW 87.22.215 and 1929 c 120 s 30 are each amended to read as follows:

Any bondholder or group of bondholders shall have the right to request said county treasurer in writing to pay the interest and installments of principal of his or her or their bond or bonds to such agent as may be designated in said request and payment to said agent shall constitute a valid payment to the record owner or owners of said bond or bonds within the provisions of this chapter.

Sec. 514. RCW 87.25.030 and 1988 c 127 s 51 are each amended to read as follows:

If, after the investigation herein provided for, the director finds that the project of the district is feasible, that the bond issue proposed to be certified is necessary and in sufficient amount to complete the improvement contemplated and that the district shows a clear probability of successful operation, he or she shall submit a complete transcript, to be furnished and certified by the district, of

the proceedings relating to the organization and establishment of the district and relating to or affecting the validity of the bond issue involved, to the attorney general, for his or her written opinion as to the legality of the same. If the attorney general finds that any of the matters submitted in the transcript are not legally sufficient he or she shall so state in his or her opinion to the director of ecology. The district shall then be given an opportunity, if possible, to correct the proceeding or thing complained of to the satisfaction of the attorney general. If the attorney general finds that all the matters submitted in the transcript as originally submitted or as subsequently corrected are legally sufficient said director shall thereupon file his or her report with the secretary of state and forward a copy to the secretary of the district, to be kept among the records of the district.

Sec. 515. RCW 87.25.060 and 1923 c 51 s 6 are each amended to read as follows:

When the proposed bond issue has been finally approved by the director, he or she shall file a supplemental report with the secretary of state giving the numbers, date or dates of issue, and denominations of said bonds which shall then be entitled to certification as herein provided.

Sec. 516. RCW 87.25.100 and 1988 c 127 s 55 are each amended to read as follows:

Whenever the bonds of any irrigation district have been certified, as provided in this chapter, no expenditures shall be made from the proceeds of such bonds, nor shall any liability chargeable against such proceeds be incurred, until there shall have been filed with and approved by the director of ecology a schedule of proposed expenditures in such form as said director shall prescribe, and no expenditures from the proceeds of said bonds shall be made for any purpose in excess of the amount allowed therefor in such schedule without the written consent of said director: PROVIDED, FURTHER, That, if it shall be necessary, the attorney general may employ competent attorneys to assist him or her in the performance of his or her duties under this chapter, said attorneys to be paid by the irrigation district for which services are rendered from any of the funds of said district at such time and in such manner as the attorney general shall require.

Sec. 517. RCW 87.52.030 and 1897 c 79 s 3 are each amended to read as follows:

Upon the delivery of said petition the board of directors of said irrigation district shall, at their next succeeding regular monthly meeting, order an election, the date of which election shall be within twenty days from the date of said meeting of the board of directors and which election shall be conducted as other elections of irrigation districts are conducted. At said election the qualified electors of said irrigation district shall cast ballots which shall contain the words "Disorganize, Yes," or "Disorganize, No." No person shall be entitled to vote at any election held under the provisions of RCW 87.52.010 through 87.52.060 unless he or she is a qualified voter under the election laws of the state, and holds title or evidence of title to land in said district.

Sec. 518. RCW 87.52.040 and 1897 c 79 s 4 are each amended to read as follows:

If three-fifths of the votes cast at any election under the provisions of RCW 87.52.010 through 87.52.060 shall contain the words "Disorganize, Yes," then the board of directors shall present to the superior judge of the county in which said irrigation district is located an application for an order of said superior court that such irrigation district be declared disorganized and dissolved, and that its affairs be liquidated and wound up, as provided for in RCW 87.52.010 through 87.52.060, and reciting that at an election of such irrigation district, held as provided in RCW 87.52.010 through 87.52.060, three-fifths of the votes cast contained the words "Disorganize, Yes," and such petition shall be certified to by the directors of said district. They shall also file with said superior court a statement, sworn to by the directors of said irrigation district, showing all outstanding indebtedness of said irrigation district, or if there be no such indebtedness, then the directors shall make oath to that effect. Notice of said application shall be given by the clerk, which notice shall set forth the nature of the application, and shall specify the time and place at which it is to be heard, and shall be published in a newspaper of the county printed and published nearest to said irrigation district, once each week for four weeks, or if no newspaper is published in the county, by publication in the newspaper nearest thereto in the state. At the time and place appointed in the notice, or at any other time to which it may be postponed by the judge, he or she shall proceed to consider the application, and if satisfied that the provisions of RCW 87.52.010 through 87.52.060 have been complied with he or she shall enter an order declaring said irrigation district dissolved and disorganized.

Sec. 519. RCW 87.52.060 and 1897 c 79 s 5 are each amended to read as follows:

Upon the disorganization of any irrigation district under the provisions of RCW 87.52.010 through 87.52.060, the board of directors at the time of the disorganization shall be trustees of the creditors and of the property holders of said district for the purpose of collecting and paying all indebtedness of said district, in which actual construction work has been done, and shall have the power to sue and be sued. It shall be the duty of said board of directors, and they shall have the power and authority, to levy and collect a tax sufficient to pay all such indebtedness, which tax shall be levied and collected in the manner prescribed by law for the levying and collection of taxes of irrigation districts. Any balance of moneys of said district remaining over after all outstanding indebtedness and the cost of the proceedings under RCW 87.52.010 through 87.52.060 have been paid shall be divided and refunded to the assessment payers in said irrigation district, to each in proportion to the amount contributed by him or her to the total amount of assessments collected by said district. Said board of directors shall report to the court from time to time as the court may direct, and upon a showing to the court that all indebtedness has been paid, an order shall be entered discharging said board of directors. Upon the entry of such order said board of directors and all the officers of said district shall deliver over to the clerk of said court all books, papers, records, and documents belonging to said district, or under their control as officers thereof: PROVIDED, That nothing herein contained shall be construed to validate or authorize the payment of any indebtedness of said district exceeding the legal limitation of indebtedness specified by law for irrigation districts; or any indebtedness contracted by such irrigation district or its officers without lawful authority.

Sec. 520. RCW 87.53.100 and 1951 c 237 s 10 are each amended to read as follows:

Upon the entry of final judgment, the court shall issue an order appointing a trustee for the district and shall deliver to him or her a certified copy of the order. The court shall fix the compensation of the trustee and the amount of his or her bond to be obtained at the cost of the district.

Sec. 521. RCW 87.53.120 and 1951 c 237 s 12 are each amended to read as follows:

The trustee shall file with the clerk a report of the disposition made of the cash funds and of the sale and if the court finds the sale was fairly conducted, it shall enter an order confirming the sale, and the trustee shall execute and deliver to the purchaser an instrument conveying to him or her all property and rights of the district, free from all claims of the district or its creditors, which shall entitle the purchaser to immediate possession.

Sec. 522. RCW 87.53.150 and 1988 c 127 s 62 are each amended to read as follows:

Whenever any bonds of the district are held in the state reclamation revolving account, and, in the opinion of the director of ecology, the district is or will be unable to meet its obligations, and that the state's investment can be best preserved by the dissolution of the district the director may give his or her consent to dissolution under such stipulations and adjustments of the indebtedness as he or she deems best for the state.

Sec. 523. RCW 87.56.040 and 1925 ex.s. c 124 s 4 are each amended to read as follows:

Such action shall be one in rem and personal service of process shall not be required to be made on any interested person: PROVIDED, That the court shall be authorized in proper instances to order issuance and personal service of process specifying such time for appearance as the court shall require, AND PROVIDED FURTHER, That any owner of land within the district or any creditor of the district or their respective attorneys may file with the receiver provided for in this chapter, a written request that his or her name and address be placed on the receiver's mailing list and thereafter the receiver shall mail to such person at his or her given address at least ten days' written notice of all subsequent hearings before the court. Personal service of said notice may be made in any instance in lieu of mailing at the option of the receiver.

Sec. 524. RCW 87.56.180 and 1925 ex.s. c 124 s 23 are each amended to read as follows:

The judgment shall also name a trustee to be nominated by the creditors representing a majority of the indebtedness who shall give bond conditioned for the faithful performance of his or her duties and the strict accounting of all funds received by him or her in such amount as the court shall determine, and who shall have authority to receive payment on account of said judgment and to satisfy said judgment against the several lands at the time payment thereon is made by the landowners in proportion to the amount of said payment. When any landowner shall make full payment of the amount of the judgment apportioned against his or her land, he or she shall be entitled to full satisfaction thereof of record.

Sec. 525. RCW 87.56.190 and 1925 ex.s. c 124 s 24 are each amended to read as follows:

In case any landowner fails to pay the judgment against his or her land or any installment thereof, when the same shall become due and payable, said judgment may be enforced by the trustee named in the decree in the manner provided by law for the enforcement of judgments in the superior court, and the costs of execution and sale shall be charged to the defaulting land.

Sec. 526. RCW 87.56.203 and 1925 ex.s. c 124 s 26 are each amended to read as follows:

The trustee named in the decree shall receive such compensation for his or her services as the court shall determine to be paid at such times as the court shall fix from funds collected on account of said judgment.

Sec. 527. RCW 87.56.210 and 1925 ex.s. c 124 s 28 are each amended to read as follows:

If the judgment rendered by the court, upon stipulation, be not appealed from as in this chapter provided and the time for appeal has expired, or having been appealed from has been finally determined upon appeal, the court shall upon application of the receiver, order all evidences of indebtedness filed in the registry of the court under the provisions relating to judgment upon stipulation to be delivered to the office of the county treasurer, who shall have authority and it shall be his or her duty to cancel the same, and said evidences of indebtedness shall thereafter cease to be obligations of the district, and the district thereafter shall be discharged of said indebtedness.

Sec. 528. RCW 87.64.010 and 1983 c 167 s 243 are each amended to read as follows:

Whenever the state shall now or hereafter own, the entire issue of the bonds of any irrigation, diking or drainage district, and in the judgment of the director of ecology such district is, or will be, unable to meet its obligations to the state as they mature, and in the judgment of the director of ecology the investment of the state can be made more secure by extending, without refunding, the time of payment of any or all said bonds and interest payments, or by the exchange of the bonds held by the state for refunding bonds of such district issued as in the manner provided by law at the same or a lower rate of interest and/or for a longer term, or by the cancellation of a portion of the bonds held by the state and/or interest accrued thereon, and the exchange of the remaining bonds held by the state for the refunding bonds of the district issued in the manner provided by law at the same or a lower rate of interest and/or for the same or a longer term, the director of ecology shall be and is hereby authorized and empowered to enter into contract with the district so extending the time of payment of said bonds and interest payments, without refunding or to so exchange the bonds held by the state for such refunding bonds or to cancel a portion of the bonds held by the state and/or interest accrued thereon, and exchange the remaining bonds held by the state for such refunding bonds as in his or her judgment will be for the best interest of the state.

Sec. 529. RCW 87.64.020 and 1983 c 167 s 244 are each amended to read as follows:

Whenever the state shall, now or hereafter, own a portion of the bonds of any irrigation, diking, or drainage district, and in the judgment of the director of

ecology such district is, or will be, unable to meet its obligations as they mature, and in the judgment of the director of ecology the investment of the state can be made more secure by extending, without refunding, the time of payment of any or all said bonds and interest payments or by exchanging the bonds held by the state for the refunding bonds of the district issued in the manner provided by law at the same or a lower rate of interest and/or for a longer term, or by the cancellation of a portion of the bonds held by the state and/or interest accrued thereon, and the exchange of the remaining bonds held by the state for the refunding bonds of the district issued in the manner provided by law at the same or a lower rate of interest and/or for a longer term, the director of ecology shall be and is hereby authorized and empowered to enter into contract with the district so extending the time of payment of said bonds and interest payments, without refunding, or to so exchange the bonds held by the state for such refunding bonds or to cancel a portion of the bonds held by the state and/or interest accrued thereon, and exchange the remaining bonds held by the state for such refunding bonds as in his or her judgment will be for the best interest of the state: PROVIDED, That the owners of at least ninety percent of all the other bonds of said district shall make and execute the same arrangement with the district: AND PROVIDED FURTHER, That when, in addition to owning a portion of the first issue of bonds of any such irrigation, diking, or drainage district, the state also owns all the outstanding second issue of bonds of such district, the director of ecology shall be and he or she is hereby authorized and empowered to surrender and cancel said second issue of bonds held by the state upon whatsoever terms and conditions he or she shall deem to the best interest of the state: AND PROVIDED FURTHER, That whenever the owners of at least ninety percent of all other bonds of such district and/or other evidences of indebtedness are willing to release their existing obligations against said district and to substitute therefor a contract to pay such existing indebtedness in whole or in part from the proceeds of the sale of lands owned by the district at the time of such settlement, or acquired by the district through levies then existing, the director of ecology shall be and he or she is hereby authorized and empowered to cancel the bonds held by the state upon whatsoever terms that he or she shall deem most beneficial for the state, or if deemed beneficial to the state, he or she may release the state's bonds and join with the other holders in the above mentioned contract for the sale of the district land as hereinbefore stated: AND PROVIDED FURTHER, That the director of ecology be and he or she is hereby authorized to accept in any settlement made under this chapter, refunding bonds of any irrigation district that may be issued in accordance with chapter 87.22 RCW, or any amendment thereto, and he or she is hereby authorized, when in his or her judgment it is to the interest of the state, to participate in the refunding of bonds of an irrigation district held under said chapter 87.22 RCW, or any amendment thereto.

Sec. 530. RCW 87.64.040 and 1988 c 127 s 64 are each amended to read as follows:

Whenever the department of ecology shall have heretofore entered, or shall hereafter enter, into a contract with an irrigation, diking, or drainage district and shall have expended moneys under said contract, and said district shall be indebted to the state for the moneys so expended, and in the judgment of the director of ecology said district shall have not received benefits equal to the

amount of said indebtedness, the director of ecology shall be and is hereby authorized and empowered to settle and compromise the claim of the state against said district upon such terms and for such an amount as he or she shall deem fair and just to the state and the district.

Sec. 531. RCW 87.84.070 and 1973 1st ex.s. c 195 s 132 are each amended to read as follows:

The directors shall be empowered to specially assess land located in the district for benefits thereto taking as a basis the last equalized assessment for county purposes: PROVIDED, That such assessment shall not exceed twenty-five cents per thousand dollars of assessed value upon such assessed valuation without securing authorization by vote of the electors of the district at an election called for that purpose.

The board shall give notice of such an election, for the time and in the manner and form provided for irrigation district elections. The manner of conducting and voting at such an election, opening and closing polls, canvassing the votes, certifying the returns, and declaring the result shall be nearly as practicable the same as in irrigation district elections.

The special assessment provided for herein shall be due and payable at such times and in such amounts as designated by the district directors, which designation shall be made to the county auditor in writing, and the amount so designated shall be added to the general taxes, and entered upon the assessment rolls in his or her office, and collected therewith.

Sec. 532. RCW 88.08.060 and 1909 c 249 s 293 are each amended to read as follows:

Every person not duly licensed thereto, who shall pilot or offer to pilot any vessel into, within or out of the waters of Juan de Fuca Strait or Puget Sound, shall be guilty of a misdemeanor: PROVIDED, That nothing herein shall prohibit a master of a vessel acting as his or her own pilot, nor compel a master or owner of any vessel to take out a pilot license for that purpose.

Sec. 533. RCW 88.16.130 and 1977 ex.s. c 337 s 14 are each amended to read as follows:

Any person not holding a license as pilot under the provisions of this chapter who pilots any vessel subject to the provisions of this chapter on waters covered by this chapter shall pay to the board the pilotage rates payable under the provisions of this chapter. Any master or owner of a vessel required to employ a pilot licensed under the provisions of this chapter who refuses to do so when such a pilot is available shall be punished pursuant to RCW 88.16.150 as now or hereafter amended and shall be imprisoned in the county jail of the county wherein he or she is so convicted until said fine and the costs of his or her prosecution are paid.

Sec. 534. RCW 88.24.010 and Code 1881 s 3271 are each amended to read as follows:

Any person owning land adjoining any navigable waters or watercourse, within or bordering upon this state, may erect upon his or her own land any wharf or wharves, and may extend them so far into said waters or watercourses as the convenience of shipping may require; and he or she may charge for wharfage such rates as shall be reasonable: PROVIDED, That he or she shall at

all times leave sufficient room in the channel for the ordinary purposes of navigation.

Sec. 535. RCW 88.24.020 and 1893 c 49 s 1 are each amended to read as follows:

(1) Whenever any person shall be desirous of erecting any wharf at the terminus of any public highway, or at any accustomed landing place, he or she may apply to the county commissioners of the proper county, who, if they shall be satisfied that the public convenience requires said wharf, may authorize the same to be erected and kept up for any length of time not exceeding twenty years. And they shall annually prescribe the rates of wharfage and charges thereon, but there shall be no charge for the landing of passengers or their baggage.

(2) No such authority shall be granted to any person other than the owner of the land where the wharf is proposed to be erected, unless such owner shall neglect to apply for such authority; and whenever application shall be made for such authority by any person other than such owner, the board of county commissioners shall not grant the same unless proof shall be made that the applicant caused notice in writing of his or her intention to make such application, to be given by posting up at least three notices in public places in the neighborhood where the proposed wharf is to be erected and one notice at the county court house, twenty days prior to any regular session of the board of county commissioners at which application shall be made and by serving a copy of said notice in writing upon such owner of the land, if residing in the county, at least ten days before the session of the board of county commissioners at which the application is made.

(3) When such application is heard, if the owner of such land applies for such authority and files his or her undertaking with one or more sureties to be approved by the county commissioners in a sum not less than one hundred dollars nor more than five hundred dollars, to be fixed by the county commissioners, conditioned that such person will erect said wharf within the time therein limited, to be fixed by the county commissioners, and maintain the same and keep said wharf according to law; and if default shall at any time be made in the condition of such undertaking damages not exceeding the penalty may be recovered by any person aggrieved before any court having competent jurisdiction, then said county commissioners shall authorize such owner of the land to erect and keep such wharf.

(4) If such owner of the land does not apply as aforesaid the commissioners may authorize the same to be erected and kept by such applicant upon his or her entering into an undertaking as required of such owner of the land.

Sec. 536. RCW 88.24.030 and Code 1881 s 3273 are each amended to read as follows:

Whenever any person or persons shall be desirous of erecting a wharf at the terminus of any street of any incorporated town or city in the state, he or she or they may apply to the municipal authorities of such town or city who, if they shall be satisfied that the public convenience requires said wharf, may authorize the same to be erected and kept in repair for any length of time not exceeding ten years; and every person building, owning or occupying a wharf in this state, upon which wharfage is charged and received, shall be held accountable to the

owner or owners, consignees or agents, for any and all damage done to property stored upon, or passing over said wharf, in consequence of the unfinished, incomplete, or insufficient condition of said wharf; and every such person shall post or cause to be posted in a conspicuous place on said wharf the established rates of wharfage, noting passengers and their baggage free.

Sec. 537. RCW 88.32.020 and 1907 c 236 s 2 are each amended to read as follows:

Whenever the board of county commissioners of any such county shall have adjudged as provided in RCW 88.32.010, said board shall thereupon apply to the person, who, for the time being, shall be judge of the United States district court, for the district within which the county shall be situated, to name eleven reputable citizens and freeholders of such county and file a list thereof with said board of county commissioners. The persons so named, or a majority of them, shall act as a commission, and be known as the "river and harbor improvement commission of county", and shall receive no compensation, except their actual necessary expenses, including necessary clerical assistance, to be audited by the board of county commissioners; and they shall be deemed the agents of the county in the performance of the duties imposed upon them by RCW 88.32.010 through 88.32.220. Each member of such commission shall, before entering upon his or her duties, take and subscribe an oath, substantially as follows:

"State of Washington
County of } ss.

I, the undersigned, a member of the river and harbor improvement commission of county, to define and establish the assessment district and assess the costs of the following improvement (here give the general description of the improvement), do solemnly swear (or affirm, as the case may be), that I will well and truly discharge my duties as a member of said commission." In case the person who is United States judge shall be unable or decline to act, the board of county commissioners shall name the eleven persons to act as such commission.

Sec. 538. RCW 88.32.040 and 1907 c 236 s 3 are each amended to read as follows:

It shall be the duty of such commission to define and establish an assessment district, within such county, comprising all the taxable real property, and also (with the limitations hereinafter expressed) the state shorelands, which shall be specially benefited by said river, lake, canal, or harbor improvement, and to apportion and assess the amount of separate, special, and particular benefits against each lot, block, parcel, or tract of land or shoreland within such district, by reason of such improvement. The commission in making the assessment shall include in the properties upon ~~((which))~~ which the assessment is laid, all shorelands of the state, whether unsold or under contract of sale and subject to sale by it and as against all purchasers from the state or under contract to purchase such lands, the assessment shall be a charge upon such land and the purchaser's interest therein. The county auditor shall certify to the state

commissioner of public lands a schedule of the state shorelands so assessed and of the assessment thereon, and the purchaser shall from time to time pay to the proper county treasurer the sums due and unpaid under such assessment, and at the time of such payment the county treasurer shall give him or her, in addition to a regular receipt for such payment, a certificate that such payment has been made, which certificate the purchaser shall immediately file with the commissioner of public lands, and no patent from the state nor deed shall issue to such purchaser, nor shall any assignment of his or her contract to purchase be approved by the commissioner of public lands until every matured installment of such assessment shall have first been fully paid and satisfied: PROVIDED, HOWEVER, That no such assessment shall create any charge against such shoreland or affect the title thereof as against the state, and the state shall be as free to forfeit or annul such contract and again sell such land as if the assessment had never been made, and in case of such forfeiture or annulment the state shall be free to sell again such land entirely disencumbered and unencumbered of all right and claim of such former purchaser, and such purchaser shall have no right, interest, or claim upon or against such land or the state or such new purchaser or at all, but every such sum paid by such former purchaser upon such assessment shall be utterly forfeited as against him or her, his or her personal representatives and assigns, and shall inure to the benefit of such new purchaser.

Sec. 539. RCW 88.32.090 and 1988 c 202 s 90 are each amended to read as follows:

Any person who feels aggrieved by the final assessment made against any lot, block, or parcel of land owned by him or her may appeal therefrom to the superior court of such county. Such appeal shall be taken within the time, and substantially in the manner prescribed by the laws of this state for appeals from justice's courts. All notices of appeal shall be filed with the board of county commissioners, and served upon the prosecuting attorney of the county. The clerk of the board of county commissioners shall at appellant's expense certify to the superior court so much of the record, as appellant may request, and the cause shall be tried in the superior court de novo.

Any person aggrieved by any final order or judgment, made by the superior court concerning any assessment authorized by RCW 88.32.010 through 88.32.220, may seek appellate review of the order or judgment in accordance with the laws of this state relative to such review, except that review shall be sought within thirty days after the entry of such judgment.

Sec. 540. RCW 88.32.100 and 1907 c 236 s 8 are each amended to read as follows:

The final assessment shall be a lien, paramount to all other liens, except liens for taxes and other special assessments, upon the property assessed, from the time the assessment roll shall be approved by said board of county commissioners and placed in the hands of the county treasurer, as collector. After said roll shall have been delivered to the county treasurer for collection, he or she shall proceed to collect the same, in the manner as other taxes are collected: PROVIDED, That such treasurer shall give at least ten days' notice in the official newspaper (and shall mail a copy of such notice to the owner of the property assessed, when the post office address of such owner is known, but failure to mail such notice shall not be fatal when publication thereof is made),

that such roll has been certified to him or her for collection, and that unless payment be made within thirty days from the date of such notice, that the sum charged against each lot or parcel of land shall be paid in not more than ten equal annual payments, with interest upon the whole sum so charged at a rate not to exceed seven percent per annum. Said interest shall be paid semiannually, and the county treasurer shall proceed to collect the amount due each year by the publication of notice as hereinabove provided.

Sec. 541. RCW 88.32.140 and 1983 c 167 s 245 are each amended to read as follows:

(1) In all cases, the county, as the agent of the local improvement district, shall, by resolution of its county legislative authority, cause to be issued in the name of the county, the bonds for such local improvement district for the whole estimated cost of such improvement, less such amounts as shall have been paid within the thirty days provided for redemption, as hereinabove specified. Such bonds shall be called "Local Improvement Bonds, District No. . . . , County of , State of Washington", and shall be payable not more than ten years after date, and shall be subject to annual call by the county treasurer, in such manner and amounts as he or she may have cash on hand to pay the same in the respective local improvement fund from which such bonds are payable, interest to be paid at the office of the county treasurer. Such bonds shall be issued and delivered to the contractor for the work from month to month in such amounts as the engineer of the government, in charge of the improvement, shall certify to be due on account of work performed, or, if said county legislative authority resolves so to do, such bonds may be offered for sale after thirty days public notice thereof given, to be delivered to the highest bidder therefor, but in no case shall such bonds be sold for less than par, the proceeds to be applied in payment for such improvement: PROVIDED, That unless the contractor for the work shall agree to take such bonds in payment for his or her work at par, such work shall not be begun until the bonds shall have been sold and the proceeds shall have been paid into a fund to be called "Local Improvement Fund No. . . . , County of", and the owner or owners of such bonds shall look only to such fund for the payment of either the principal or interest of such bonds.

Such bonds shall be issued in denominations of one hundred dollars each, and shall be substantially in the following form:

"Local Improvement Bond, District Number of the County of , State of Washington.

No. N.B. | \$

This bond is not a general debt of the county of and has not been authorized by the voters of said county as a part of its general indebtedness. It is issued in pursuance of an act of the legislature of the state of Washington, passed the day of A.D. 1907, and is a charge against the fund herein specified and its issuance and sale is authorized by the resolution of the county legislative authority, passed on the day of A.D. 1907. The county of , a municipal corporation of the state of Washington, hereby promises to pay to , or bearer, one hundred dollars, lawful money of the United States of America, out of the fund established by resolution of the county legislative

authority on the day of, A.D. 19. . ., and known as local improvement fund district number of county, and not otherwise.

"This bond is payable ten years after date, and is subject to annual call by the county treasurer at the expiration of any year before maturity in such manner and amounts as he or she may have cash on hand to pay the same in the said fund from which the same is payable, and shall bear interest at the rate of percent per annum, payable semiannually; both principal and interest payable at the office of the county treasurer. The county legislative authority of said county, as the agent of said local improvement district No., established by resolution No., has caused this bond to be issued in the name of said county, as the bond of said local improvement district, the proceeds thereof to be applied in part payment of so much of the cost of the improvement of the rivers, lakes, canals, or harbors of county, under resolution No., as is to be borne by the owners of property in said local improvement district, and the said local improvement fund, district No. of county, has been established by resolution for said purpose; and the owner or owners of this bond shall look only to said fund for the payment of either the principal or interest of this bond.

"The call for the payment of this bond or any bond, issued on account of said improvement, may be made by the county treasurer by publishing the same in an official newspaper of the county for ten consecutive issues, beginning not more than twenty days before the expiration of any year from date hereof, and if such call be made, interest on this bond shall cease at the date named in such call.

"This bond is one of a series of bonds, aggregating in all the principal sum of dollars, issued for said local improvement district, all of which bonds are subject to the same terms and conditions as herein expressed.

"In witness whereof the said county of has caused these presents to be signed by its ((~~chairman~~)) chair of its county legislative authority, and countersigned by its county auditor and sealed with its corporate seal, attested by its county clerk, this day of, in the year of our Lord one thousand nine hundred and

The County of
By
((~~Chairman~~)) Chair County Legislative Authority.

Countersigned, County Auditor.
Attest, Clerk."

The bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

Sec. 542. RCW 88.32.160 and 1983 c 167 s 246 are each amended to read as follows:

Each and every bond issued for any such improvement shall be signed by the ((~~chairman~~)) chair of the county legislative authority and the county auditor, sealed with the corporate seal of the county, and attested by the county clerk. The bonds issued for each local improvement district shall be in the aggregate for such an amount as authorized by the resolution of the county legislative

authority with reference to such river, lake, canal or harbor improvement, and each issue of such bonds shall be numbered consecutively, beginning with number 1.

Sec. 543. RCW 88.32.170 and 1983 c 167 s 247 are each amended to read as follows:

The owner of any lot or parcel of land charged with any assessment as provided for hereinabove, may redeem the same from all liability by paying the entire assessment charged against such lot or parcel of land, or part thereof, without interest, within thirty days after notice to him or her of such assessment, as herein provided, or may redeem the same at any time after the bonds above specified shall have been issued, by paying the full amount of all the principal and interest to the end of the interest year then expiring, or next to expire. The county treasurer shall pay the interest on the bonds authorized to be issued under RCW 88.32.010 through 88.32.220 out of the respective local improvement funds from which they are payable, and whenever there shall be sufficient money in any local improvement fund, against which bonds have been issued under the provisions of RCW 88.32.010 through 88.32.220, over and above the amount necessary for the payment of interest on all unpaid bonds, and sufficient to pay the principal of one or more bonds, the county treasurer shall call in and pay such bonds, provided that such bonds shall be called in and paid in their numerical order: PROVIDED, FURTHER, That such call shall be made by publication in the county official newspaper, on the day following the delinquency of the installment of the assessment, or as soon thereafter as practicable, and shall state that bonds numbers (giving the serial number or numbers of the bonds called), will be paid on the day the interest payment on said bonds shall become due, and interest upon such bonds shall cease upon such date. If the county shall fail, neglect, or refuse to pay said bonds or promptly to collect any of said assessments when due, the owner of any such bonds may proceed in his or her own name to collect such assessment and foreclose the lien thereof in any court of competent jurisdiction, and shall recover in addition to the amount of such bonds and interest thereon, five percent, together with the costs of such suit. Any number of owners of such bonds for any single improvement, may join as plaintiffs and any number of owners of the property on which the same are a lien may be joined as defendants in such suit.

Sec. 544. RCW 88.32.190 and 1907 c 236 s 14 are each amended to read as follows:

In every case of such joint action, the preliminary procedure of RCW 88.32.010 having been first had in each county severally, the board of county commissioners of the several counties proposing to join shall unite in such an application as is prescribed in RCW 88.32.020, and the application shall be made to any person, who, for the time being, shall be a judge of the United States district court in any district in which such counties, or any of them, may lie, and the list mentioned in RCW 88.32.020 shall be made in as many counterparts as there are counties so joining, and one counterpart shall be filed with the board of county commissioners of each county, and if the person who is such United States judge shall decline or be unable to act, then, the board of such counties shall meet in joint session, at the county seat of such one of the counties as shall be agreed upon and shall organize as a joint board by appointing a (~~chairman~~)

chair and clerk, and by resolution in which a majority of all the commissioners present, and at least one commissioner from each county, shall concur, name the eleven persons for the commission, which eleven in such case shall be citizens of the counties concerned, and as nearly as may be the same number from each county. A counterpart of such resolution shall be recorded in the minutes of the proceedings of the board of each county. The commission shall make as many assessment rolls as there are counties joining and one counterpart roll shall be certified by such ((~~chairman~~)) chair and clerk of the joint board, and by such clerk filed with the board of each of such counties.

Sec. 545. RCW 88.32.200 and 1907 c 236 s 15 are each amended to read as follows:

For purposes of a board of equalization, said boards shall from time to time meet as a joint board as aforesaid, and have a ((~~chairman~~)) chair and clerk as aforesaid, and for all purposes under RCW 88.32.070 and 88.32.080, in case of counties joining, the word board wherever occurring in said sections shall be interpreted to mean such joint board, and the word clerk shall be deemed to mean the clerk of such joint board, and the posting of notices shall be in at least ten public places in each county, and the publication of the same shall be in a newspaper of each county, and the objections mentioned in RCW 88.32.080 shall be filed with the clerk of the joint board, who shall cause a copy thereof, certified by him or her to be filed with the clerk of the board of county commissioners of the county where the real estate of the party objecting is situated.

Sec. 546. RCW 88.32.210 and 1907 c 236 s 16 are each amended to read as follows:

The minutes of the proceedings of the joint board and the assessment roll as finally settled by such board shall be made up in as many counterparts as there are counties joining as aforesaid, and shall be signed by the ((~~chairman~~)) chair and clerk of said board, and one of said counterparts so signed shall be filed by said clerk with the clerk of the board of county commissioners of each of said counties, and any appeals and subsequent proceedings under RCW 88.32.090 to 88.32.170, inclusive, as far as relates to real estate in any individual county, shall be as nearly as may be the same as if the local improvement district and bond issue concerned that county only.

Sec. 547. RCW 89.08.010 and 1973 1st ex.s. c 184 s 2 are each amended to read as follows:

It is hereby declared, as a matter of legislative determination:

(1) That the lands of the state of Washington are among the basic assets of the state and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the lands of this state by wind and water; that the breaking of natural grass, plant, and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed off of lands; that there has been an accelerated washing of sloping lands; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less

absorptive and less protective but more erosive subsoil; that failure by any land occupier to conserve the soil and control erosion upon his or her lands may cause a washing and blowing of soil from his or her lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible, and that extensive denuding of land for development creates critical erosion areas that are difficult to effectively regenerate and the resulting sediment causes extensive pollution of streams, ponds, lakes, and other waters.

(2) That the consequences of such soil erosion in the form of soil blowing and soil washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors, and loading the air with soil particles; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall run-off, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, buildings, and other property from floods and from dust storms; and losses in navigation, hydroelectric power, municipal water supply, irrigation developments, farming, and grazing.

(3) That to conserve soil resources and control and prevent soil erosion and prevent flood water and sediment damages, and further agricultural and nonagricultural phases of the conservation, development, utilization, and disposal of water, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices, and works of improvement for flood prevention of agricultural and nonagricultural phases of the conservation, development, utilization, and disposal of water be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check-dams, desilting basins, flood water retarding structures, channel floodways, dikes, ponds, ditches, and the like; the utilization of strip cropping, contour cultivating, and contour furrowing; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops; soil stabilizations with trees, grasses, legumes, and other thick-growing, soil-holding crops, retardation of run-off by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

(4) Whereas, there is a pressing need for the conservation of renewable resources in all areas of the state, whether urban, suburban, or rural, and that the benefits of resource practices, programs, and projects, as carried out by the state conservation commission and by the conservation districts, should be available

to all such areas; therefore, it is hereby declared to be the policy of the legislature to provide for the conservation of the renewable resources of this state, and for the control and prevention of soil erosion, and for the prevention of flood water and sediment damages, and for furthering agricultural and nonagricultural phases of conservation, development, utilization, and disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state. To this end all incorporated cities and towns heretofore excluded from the boundaries of a conservation district established pursuant to the provisions of the state conservation district law, as amended, may be approved by the conservation commission as being included in and deemed a part of the district upon receiving a petition for annexation signed by the governing authority of the city or town and the conservation district within the exterior boundaries of which it lies in whole or in part or to which it lies closest.

Sec. 548. RCW 89.08.170 and 1973 1st ex.s. c 184 s 18 are each amended to read as follows:

If the secretary of state finds that the name of the proposed district is such as will not be confused with that of any other district, he or she shall enter the application and statement in his or her records. If he or she finds the name may be confusing, he or she shall certify that fact to the commission, which shall submit a new name free from such objections, and he or she shall enter the application and statement as modified, in his or her records. Thereupon the district shall be considered organized into a body corporate.

The secretary of state shall then issue to the supervisors a certificate of organization of the district under the seal of the state, and shall record the certificate in his or her office. Proof of the issuance of the certificate shall be evidence of the establishment of the district, and a certified copy of the certificate shall be admissible as evidence and shall be proof of the filing and contents thereof. The name of a conservation district may be changed upon recommendation by the supervisors of a district and approval by the state conservation commission and the secretary of state. The new name shall be recorded by the secretary of state following the same general procedure as for the previous name.

Sec. 549. RCW 89.08.180 and 1999 c 305 s 6 are each amended to read as follows:

Territory may be added to an existing district upon filing a petition as in the case of formation with the commission by twenty percent of the voters of the affected area to be included. The same procedure shall be followed as for the creation of the district.

As an alternate procedure, the commission may upon the petition of a majority of the voters in any one or more districts or in unorganized territory adjoining a conservation district change the boundaries of a district, or districts, if such action will promote the practical and feasible administration of such district or districts.

Upon petition of the boards of supervisors of two or more districts, the commission may approve the combining of all or parts of such districts and

name the district, or districts, with the approval of the name by the secretary of state. A public hearing and/or a referendum may be held if deemed necessary or desirable by the commission in order to determine the wishes of the voters.

When districts are combined, the joint boards of supervisors will first select a ((~~chairman~~)) chair, secretary, and other necessary officers and select a regular date for meetings. All elected supervisors will continue to serve as members of the board until the expiration of their current term of office, and/or until the election date nearest their expiration date. All appointed supervisors will continue to serve until the expiration of their current term of office, at which time the commission will make the necessary appointments. In the event that more than two districts are combined, a similar procedure will be set up and administered by the commission.

When districts are combined or territory is moved from one district to another, the property, records, and accounts of the districts involved shall be distributed to the remaining district or districts as approved by the commission. A new certificate of organization, naming and describing the new district or districts, shall be issued by the secretary of state.

Sec. 550. RCW 89.08.200 and 1973 1st ex.s. c 184 s 21 are each amended to read as follows:

The term of office of each supervisor shall be three years and until his or her successor is appointed or elected and qualified, except that the supervisors first appointed shall serve for one and two years respectively from the date of their appointments, as designated in their appointments.

In the case of elected supervisors, the term of office of each supervisor shall be three years and until his or her successor is elected and qualified, except that for the first election, the one receiving the largest number of votes shall be elected for three years; the next largest two years; and the third largest one year. Successors shall be elected for three-year terms.

Vacancies in the office of appointed supervisors shall be filled by the state conservation commission. Vacancies in the office of elected supervisors shall be filled by appointment made by the remaining supervisors for the unexpired term.

A majority of the supervisors shall constitute a quorum and the concurrence of a majority is required for any official action or determination.

Supervisors shall serve without compensation, but they shall be entitled to expenses, including traveling expenses, necessarily incurred in discharge of their duties. A supervisor may be removed by the state conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The governing board shall designate a ((~~chairman~~)) chair from time to time.

Sec. 551. RCW 89.08.210 and 2000 c 45 s 1 are each amended to read as follows:

The supervisors may employ a secretary, treasurer, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and determine their qualifications, duties, and compensation. It may call upon the attorney general for legal services, or may employ its own counsel and legal staff. The supervisors may delegate to their ((~~chairman~~)) chair, to one or more supervisors, or to one or more agents or employees such powers and duties as it deems proper. The supervisors shall furnish to the commission,

upon request, copies of such internal rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as the commission may require in the performance of its duties under chapter 184, Laws of 1973 1st ex. sess. The supervisors shall provide for the execution of surety bonds for officers and all employees who shall be entrusted with funds or property.

The supervisors shall provide for the keeping of a full and accurate record of all proceedings, resolutions, regulations, and orders issued or adopted. The supervisors shall provide for an annual audit of the accounts of receipts and disbursements in accordance with procedures prescribed by regulations of the commission.

The board may invite the legislative body of any municipality or county near or within the district, to designate a representative to advise and consult with it on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county. The governing body of a district shall appoint such advisory committees as may be needed to assure the availability of appropriate channels of communication to the board of supervisors, to persons affected by district operations, and to local, regional, state and interstate special-purpose districts and agencies responsible for community planning, zoning, or other resource development activities. The district shall keep such committees informed of its work, and such advisory committees shall submit recommendations from time to time to the board of supervisors.

Sec. 552. RCW 89.12.020 and 1943 c 275 s 3 are each amended to read as follows:

As used in this chapter,

The term "secretary" shall mean the secretary of the interior of the United States, or his or her duly authorized representative.

The term "appraised value" shall mean the value of lands within the scope of this chapter appraised or reappraised by the secretary without reference to or increment on account of the irrigation works built or to be built by the United States.

The term "district" shall mean an irrigation or reclamation district governed by this chapter as provided in RCW 89.12.030.

The term "federal reclamation laws" shall mean the act of congress of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplemental thereto including the act of congress entitled "An Act to amend the Act approved May 27, 1937 (Ch. 269, 50 Stat. 208), by providing substitute and additional authority for the prevention of speculation in lands of the Columbia Basin project, and substitute an additional authority related to the settlement and development of the project, and for other purposes, enacted and approved in the Seventy-Eighth Session."

The term "lands" shall mean, unless otherwise indicated, lands within the boundaries of a district contracting or intending to contract with the United States under the terms of this chapter.

The term "owner," "landowner," and "any one landowner" shall mean any person, corporation, joint stock association or family owning lands that are within the scope of this chapter.

The term "family" shall mean a group consisting of either or both husband and wife, together with their children under eighteen years of age, or all of such children if both parents are dead, the term "their children" including the issue and lawfully adopted children of either or both husband and wife. Within the meaning of this chapter, lands shall be deemed to be held by a family if held as separate property of husband or wife, or if held as a part or all of their community property, or if they are the property of any or all of their children under eighteen years of age.

Sec. 553. RCW 89.12.050 and 2009 c 145 s 3 are each amended to read as follows:

(1) A district may enter into repayment and other contracts with the United States under the terms of the federal reclamation laws in matters relating to federal reclamation projects, and may with respect to lands within its boundaries include in the contract, among others, an agreement that:

(a) The district will not deliver water by means of the project works provided by the United States to or for excess lands not eligible therefor under applicable federal law.

(b) As a condition to receiving water by means of the project works, each excess landowner in the district, unless his or her excess lands are otherwise eligible to receive water under applicable federal law, shall be required to execute a recordable contract covering all of his or her excess lands within the district.

(c) All excess lands within the district not eligible to receive water by means of the project works shall be subject to assessment in the same manner and to the same extent as lands eligible to receive water, subject to such provisions as the secretary may prescribe for postponement in payment of all or part of the assessment but not beyond a date five years from the time water would have become available for such lands had they been eligible therefor.

(d) The secretary is authorized to amend any existing contract, deed, or other document to conform to the provisions of applicable federal law as it now exists. Any such amendment may be filed for record under RCW 89.12.080.

(2) A district may enter into a contract with the United States for the transfer of operations and maintenance of the works of a federal reclamation project, but the contract does not impute to the district negligence for design or construction defects or deficiencies of the transferred works.

Sec. 554. RCW 89.12.150 and 1988 c 128 s 75 are each amended to read as follows:

From and after the date that the consent of the United States shall be given thereto by act of congress, the department of natural resources is authorized, upon request from the secretary of the interior, to cause an appraisal to be made by the board of natural resources of state lands in any division of any federal reclamation project which the secretary of the interior shall advise the department that he or she desires to have subdivided into farm units of class referred to in RCW 89.12.140, and also to cause to be appraised by the board of natural resources such public lands of the United States on the same project, or elsewhere in the state of Washington, as the secretary of the interior may propose to exchange for such state land, and when the secretary of the interior shall have secured from congress authority to make such exchange the department is

authorized to exchange such state lands in any federal reclamation project for public lands of the United States on the same project or elsewhere in the state of Washington of approximately equal appraised valuation, and in making such exchange is authorized to execute suitable instruments in writing conveying or relinquishing to the United States such state lands and accepting in lieu thereof such public land of approximately equal appraised valuation.

Sec. 555. RCW 89.16.040 and 1981 c 216 s 2 are each amended to read as follows:

From the moneys appropriated from the reclamation account there shall be paid, upon vouchers approved by the director of ecology, the administrative expenses of the director under this chapter and such amounts as are found necessary for the investigation and survey of reclamation projects proposed to be financed in whole or in part by the director, and such amounts as may be authorized by him or her for the reclamation of lands in diking, diking improvement, drainage, drainage improvement, diking and drainage, diking and drainage improvement, irrigation and irrigation improvement districts, and such other districts as are authorized by law for the reclamation or development of waste or undeveloped lands or the rehabilitation of existing reclamation projects, and all such districts and improvement districts shall, for the purposes of this chapter be known as reclamation districts.

Sec. 556. RCW 89.16.045 and 1972 ex.s. c 51 s 4 are each amended to read as follows:

Notwithstanding any other provisions of this chapter, the director of ecology may, by written contract with a reclamation district, loan moneys from the reclamation account to said district for use in financing a project of construction, reconstruction or improvement of district facilities, or a project of additions to such facilities. No such contract shall exceed fifty thousand dollars per project or a term of ten years, or provide for an interest rate of more than eight percent per annum. The director shall not execute any contract as provided in this section until he or she determines that the project for which the moneys are furnished is within the scope of the district's powers to undertake, that the project is feasible, that its construction is in the best interest of the state and the district, and that the district proposing the project is in a sound financial condition and capable of repaying the loan with interest in not more than ten annual payments. Any district is empowered to enter into a contract, as provided for in this section, and to levy assessments based on the special benefits accruing to lands within the district as are necessary to satisfy the contract, when a resolution of the governing body of the reclamation district authorizing its execution is approved by the body: PROVIDED, That no district shall be empowered to execute with the director any such contract during the term of any previously executed contract authorized by this section.

Sec. 557. RCW 89.16.050 and 1983 c 167 s 248 are each amended to read as follows:

In carrying out the purposes of this chapter, the director of the department of ecology of the state of Washington shall be authorized and empowered:

To make surveys and investigations of the wholly or partially unreclaimed and undeveloped lands in this state and to determine the relative agricultural

values, productiveness and uses, and the feasibility and cost of reclamation and development thereof;

To formulate and adopt a sound policy for the reclamation and development of the agricultural resources of the state, and from time to time select for reclamation and development such lands as may be deemed advisable, and the director may in his or her discretion advise as to the formation and assist in the organization of reclamation districts under the laws of this state;

To purchase the bonds of any reclamation district whose project is approved by the director and which is found to be upon a sound financial basis, to contract with any such district for making surveys and furnishing engineering plans and supervision for the construction of its project, or for constructing or completing its project and to advance money to the credit of the district for any or all of such purposes, and to accept the bonds, notes, or warrants of such district in payment therefor, and to expend the moneys appropriated from the reclamation account in the purchase of such bonds, notes, or warrants or in carrying out such contracts: PROVIDED, That interest not to exceed the annual rate provided for in the bonds, notes, or warrants agreed to be purchased, shall be charged and received for all moneys advanced to the district prior to the delivery of the bonds, notes, or warrants and the amount of such interest shall be included in the purchase price of such bonds, notes, or warrants: PROVIDED FURTHER, That no district, the bonds, notes, or warrants of which have been purchased by the state under the provisions of the state reclamation act, shall thereafter during the life of said bonds, notes, or warrants make expenditures of any kind from the bond or warrant funds of the district or incur obligations chargeable against such funds or issue any additional notes without previous written approval of the director of ecology of the state of Washington, and any obligations incurred without such approval shall be void;

To sell and dispose of any reclamation district bonds acquired by the director, at public or private sale, and to pay the proceeds of such sale into the reclamation account: PROVIDED, That such bonds shall not be sold for less than the purchase price plus accrued interest, except in case of a sale to an agency supplied with money by the United States of America, or to the United States of America in furtherance of refunding operations of any irrigation district, diking or drainage district, or diking or drainage improvement district, now pending or hereafter carried on by such district, in which case the director shall have authority to sell any bonds of such district owned by the state of Washington under the provisions of the state reclamation act, to the United States of America, or other federal agency on such terms as said United States of America, or other federal agency shall prescribe for bonds of the same issue of such district as that held by the state of Washington in connection with such refunding operations;

To borrow money upon the security of any bonds, including refunding bonds, of any reclamation district, acquired by the director, on such terms and rate of interest and over such period of time as the director may see fit, and to hypothecate and pledge reclamation district bonds or refunding bonds acquired by the director as security for such loan. Such loans shall have, as their sole security, the bonds so pledged and the revenues therefrom, and the director shall not have authority to pledge the general credit of the state of Washington: PROVIDED, That in reloaning any money so borrowed, or obtained from a sale

of bonds it shall be the duty of the director to fix such rates of interest as will prevent impairment of the reclamation revolving account;

To purchase delinquent general tax or delinquent special assessment certificates chargeable against lands included within any reclamation district obligated to the state under the provisions of the state reclamation act, and to purchase lands included in such districts and placed on sale on account of delinquent taxes or delinquent assessments with the same rights, privileges, and powers with respect thereto as a private holder and owner of said certificates, or as a private purchaser of said lands: PROVIDED, That the director shall be entitled to a delinquent tax certificate upon application to the proper county treasurer therefor without the necessity of a resolution of the county legislative authority authorizing the issuance of certificates of delinquency required by law in the case of the sale of such certificates to private purchasers;

To sell said delinquent certificates or the lands acquired at sale on account of delinquent taxes or delinquent assessments at public or private sale, and on such conditions as the director shall determine;

To, whenever the director shall deem it advisable, require any district with which he or she may contract, to provide such safeguards as he or she may deem necessary to assure bona fide settlement and development of the lands within such district, by securing from the owners of lands therein agreements to limit the amount of their holdings to such acreage as they can properly farm and to sell their excess land holdings at reasonable prices;

To employ all necessary experts, assistants, and employees and fix their compensation and to enter into any and all contracts and agreements necessary to carry out the purposes of this chapter;

To have the assistance, cooperation and services of, and the use of the records and files in, all the departments and institutions of the state, particularly the office of the commissioner of public lands, the state department of agriculture, Washington State University, and the University of Washington; and all state officers and the governing authorities of all state institutions are hereby authorized and directed to cooperate with the director in furthering the purpose of this chapter;

To cooperate with the United States in any plan of land reclamation, land settlement or agricultural development which the congress of the United States may provide and which may effect the development of agricultural resources within the state of Washington, and the director shall have full power to carry out the provisions of any cooperative land settlement act that may be enacted by the United States.

Sec. 558. RCW 89.30.025 and 1927 c 254 s 9 are each amended to read as follows:

Lands held by private persons under possessory rights from the federal government may be included within the operation of the district, and as soon as such lands are held under title of private ownership, the owner thereof shall be entitled to receive his or her proportion of water as in case of other landowners upon payment by him or her of such sums as shall be determined by the district board and at the time to be fixed by said district board, which sum shall be such equitable amount as such lands should pay having regard to placing said lands on the basis of equality with other lands in the district as to benefits received, and giving credit if equitable for any sums paid as water rent by the occupant of

said lands prior to the vesting of private ownership, and such lands shall also become subject to all taxes and assessments of the district thereafter imposed.

Sec. 559. RCW 89.30.034 and 1927 c 254 s 12 are each amended to read as follows:

The petition for organization of such reclamation district shall consist of any number of separate instruments of uniform similarity, numbered consecutively. For convenience, lands represented on said instruments may be grouped separately according to the county in which said lands are situated. No petitioner shall have the right to withdraw his or her name from the petition after the same has been filed with said county board.

Sec. 560. RCW 89.30.055 and 1988 c 127 s 70 are each amended to read as follows:

Upon the giving of notice of hearing on the petition by the clerk of the county board aforesaid, there is hereby authorized and created a commission composed of the ((~~chairman~~)) chair of the board of county commissioners of each of the counties in which any of the lands to be included in the proposed reclamation district are situated, and of the state director of ecology, which commission shall consider and determine said petition.

Sec. 561. RCW 89.30.058 and 1988 c 127 s 71 are each amended to read as follows:

The state director of ecology shall be ex officio ((~~chairman~~)) chair of said commission, and the clerk of the county board of the county in which the petition is filed, shall be ex officio clerk of said commission. A majority of the members of said commission shall constitute a quorum for the transaction or exercise of any of its powers, functions, duties and business.

Sec. 562. RCW 89.30.109 and 1927 c 254 s 37 are each amended to read as follows:

It shall be the duty of the clerk of the board of county commissioners of every county in which any lands included in the district are situated forthwith to certify and file for record in the county auditor's office of his or her county, a statement to the effect that, under the provisions of this chapter, certain lands (describing them in township and range and in case of smaller bodies of land in legal subdivisions or fractions thereof) were, by order of the board of county commissioners of county (naming the county) entered on the . . . day of (naming the day, month and year) included in the . . . reclamation district (using the name designated in the order of the county board establishing the district). Said statement certified by the clerk of the county board shall be entitled to record in the office of the county auditor without payment of filing or recording fee.

Sec. 563. RCW 89.30.229 and 1927 c 254 s 77 are each amended to read as follows:

Except as herein otherwise provided, the term of the office of director shall be six years from and after the second Monday in January next succeeding his or her election.

Sec. 564. RCW 89.30.259 and 1927 c 254 s 87 are each amended to read as follows:

Each director shall take and subscribe an official oath for the faithful discharge of the duties of his or her office and shall execute an official bond to the district in the sum of twenty-five hundred dollars conditioned for the faithful discharge of his or her office, which bond shall be approved by the judge of the superior court of the county where the organization of the district was effected, and said oath and bond shall be recorded in the office of the clerk of the superior court and filed with the secretary of the district.

Sec. 565. RCW 89.30.265 and 1927 c 254 s 89 are each amended to read as follows:

In case any district authorized in this chapter is appointed fiscal agent of the United States or is authorized by the United States in connection with any irrigation project in which the United States is interested to make collections of money for or on behalf of the United States, such secretary and each such director and the county treasurer of the county where the organization of the district was effected shall each execute a further additional official bond in such sum respectively as the secretary of the interior may require conditioned for the faithful discharge of the duties of his or her respective office and the faithful discharge by the district of its duties as fiscal or other agent of the United States in such appointment or authorization; such additional bonds to be approved, recorded, filed, and paid for as herein provided for other official bonds.

Sec. 566. RCW 89.30.301 and 1927 c 254 s 101 are each amended to read as follows:

No director or any other officer named in this chapter shall in any manner be interested, directly or indirectly in any contract awarded or to be awarded by the board, or in the profits to be derived therefrom; and for any violation of this provision, such officer shall be deemed guilty of a misdemeanor, and such conviction shall work a forfeiture of his or her office, and he or she shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both fine and imprisonment: PROVIDED, That nothing in this section contained shall be construed to prevent any district officer from being employed by the district as a day laborer.

Sec. 567. RCW 89.30.304 and 1927 c 254 s 102 are each amended to read as follows:

Every person, upon the expiration or sooner termination of his or her term of office as an officer of the district, shall immediately turn over and deliver, under oath, to his or her successor in office, all records, books, papers, and other property under his or her control and belonging to such office. In case of the death of any officer, his or her legal representative shall turn over and deliver such records, books, papers, and other property to the successor in office of such deceased person.

Sec. 568. RCW 89.30.307 and 1927 c 254 s 103 are each amended to read as follows:

Every person hired by the district and having in his or her custody or under his or her control, in connection with his or her contract of hire, any records, books, papers, or other property belonging to the district shall immediately upon the expiration of his or her services, turn over and deliver, under oath, to the district board or any member thereof, all such records, books, papers, or other

property. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

Sec. 569. RCW 89.30.313 and 1927 c 254 s 105 are each amended to read as follows:

Any county treasurer collecting or handling funds of the district shall be liable upon his or her official bond and to criminal prosecution for malfeasance, misfeasance, or nonfeasance in office relative to any of his or her duties prescribed herein.

Sec. 570. RCW 89.30.316 and 1927 c 254 s 106 are each amended to read as follows:

It shall be the duty of the county treasurer of each county in which lands of the district are located to collect and receipt for all assessments and taxes levied as in this chapter provided, and he or she shall account to the district for all interest received on such funds from any public depository with which the same may be deposited.

Sec. 571. RCW 89.30.322 and 1927 c 254 s 108 are each amended to read as follows:

Any claim against the district shall be presented to the district board for allowance or rejection. Upon allowance the claim shall be attached to a voucher verified by the claimant or his or her agent and approved by the president and countersigned by the secretary and directed to the county auditor of the county in which the organization of the reclamation district was effected, for the issuance of a warrant against the proper fund of the district in payment of said claim.

Sec. 572. RCW 89.30.325 and 1983 c 167 s 249 are each amended to read as follows:

Said county treasurer shall pay out the moneys received or deposited with him or her or any portion thereof upon warrants issued by the county auditor against the proper funds of the district except the sums to be paid out of the bond fund for principal and interest payments on bonds.

Sec. 573. RCW 89.30.328 and 1927 c 254 s 110 are each amended to read as follows:

The said treasurer shall report in writing during the first week in each month to the board of directors of the district the amount of money held by him or her, the amount in each fund, the amount of receipts for the month preceding in each fund, and the amount or amounts paid out of each fund, and said report shall be filed with the secretary of the district.

Sec. 574. RCW 89.30.352 and 1927 c 254 s 118 are each amended to read as follows:

The registration clerk of any county voting precinct, partially included in a reclamation district voting precinct, is hereby authorized and it shall be his or her duty to prepare and certify at the expense of the district a poll list of all registered voters of said reclamation district voting precinct and to attach the same to the poll books for his or her county voting precinct.

Sec. 575. RCW 89.30.367 and 1927 c 254 s 123 are each amended to read as follows:

Immediately upon conclusion of the canvass of the returns of the reclamation district election held in the precincts located in his or her county, the

county auditor shall mail to the ((~~chairman~~)) chair of said district board, an abstract of the result of said district election in his or her county.

Sec. 576. RCW 89.30.382 and 1927 c 254 s 128 are each amended to read as follows:

Any qualified resident elector of any director district which is entitled at that time to elect a candidate for the office of reclamation district director may become a candidate for such office by filing, at least thirty days prior to the election, his or her declaration of candidacy with the county auditor of his or her county and by paying a fee of one dollar for said filing.

Sec. 577. RCW 89.30.565 and 1927 c 254 s 189 are each amended to read as follows:

The proceeds of bond sales for cash shall be paid by the purchaser to the county treasurer of the county in which the organization of the district was effected or to his or her duly authorized agent and credited to the proper fund.

Sec. 578. RCW 89.30.604 and 1927 c 254 s 202 are each amended to read as follows:

The secretary shall be present during the sessions of the board of equalization, and note all changes made in the valuation of property and in the names of the persons whose property is assessed and on or before the first day of January next following, he or she shall complete the assessment roll as finally equalized by the board and deliver the segregations of the same to the respective county treasurers concerned.

Sec. 579. RCW 89.30.625 and 1927 c 254 s 209 are each amended to read as follows:

In case of the neglect or refusal of the secretary of the reclamation district to perform the duties imposed by law, then the treasurer of the county in which the organization of the reclamation district was effected may perform such duties and shall be accountable therefor on his or her official bond as in other cases.

Sec. 580. RCW 89.30.649 and 1927 c 254 s 217 are each amended to read as follows:

It shall be the duty of the county treasurer of the county in which any land in the general improvement or divisional district is located, to furnish upon request of the owner or any person interested, a statement showing any and all assessments levied as shown by the assessment roll in his or her office upon land described in such request and all statements of general taxes covering any land in such district shall be accompanied by a statement showing the condition of district assessments against such lands: PROVIDED, That the failure of the county treasurer to render any statement herein required of him or her, shall not render invalid any assessments made for any general improvement or divisional district or proceeding had for the enforcement and collection of such assessments pursuant to this chapter.

Sec. 581. RCW 89.30.652 and 1927 c 254 s 218 are each amended to read as follows:

It shall be the duty of the county treasurer of any county other than the county in which the organization of the reclamation district was effected to make monthly remittances to the county treasurer of the county in which the organization of the reclamation district was effected, covering all amounts

collected by him or her for any said general improvement or divisional district during the preceding month.

Sec. 582. RCW 89.30.655 and 1927 c 254 s 219 are each amended to read as follows:

On or before the thirtieth day of June in each year each respective county treasurer concerned shall post the delinquency list which must contain the names of persons and the descriptions of the property delinquent and the amount of assessments, interest, and costs opposite each name and the description in all cases where payment of fifty percent or more of the assessment against any tract of land has not been made on or before the thirty-first day of May next preceding. Likewise on or before the fifteenth day of December in each year he or she must post the delinquency list of all persons delinquent in the payment of the final installment of the fifty percent of said assessments as in this chapter provided.

Sec. 583. RCW 89.30.670 and 1927 c 254 s 224 are each amended to read as follows:

On the day fixed for the sale or on some subsequent day to which the treasurer may have postponed it, of which postponement he or she must give notice at the time of making such postponement, and between the hours of ten o'clock a.m. and three o'clock p.m., the county treasurer making the sale must commence the same beginning at the head of the list and continuing alphabetically or in numerical order of the parcels, lots, and blocks until completed.

Sec. 584. RCW 89.30.676 and 1927 c 254 s 226 are each amended to read as follows:

The owner or person in possession of any real estate offered for sale for assessments thereon may designate in writing to the county treasurer by whom the sale is to be made and prior to the sale, what portion of the property he or she wishes sold, if less than the whole, but if the owner or possessor does not, then the treasurer may designate it and the person who will take the least quantity of the land or in case an undivided interest is assessed then the smallest portion of the interest, and pay the assessment, interest, and cost due including one dollar to the treasurer for a duplicate of the certificate of sale, is the purchaser. The treasurer shall account to the district for said one dollar.

Sec. 585. RCW 89.30.685 and 1927 c 254 s 229 are each amended to read as follows:

In case the district is the purchaser, the treasurer shall make an entry "sold to the district", and he or she shall receive proper credit for the amount of the sale in his or her settlement with the district.

Sec. 586. RCW 89.30.700 and 1927 c 254 s 234 are each amended to read as follows:

All moneys received by the reclamation district for transfers of certificates of sale, or through sale or lease of property acquired on account of sales for delinquent assessments, shall be paid to the county treasurer of the county in which the lands involved are situated and by him or her credited to the funds for which the assessments were levied in proportion to the right of each fund respectively.

Sec. 587. RCW 89.30.709 and 1927 c 254 s 237 are each amended to read as follows:

The certificate of sale must be signed by the treasurer making the sale and filed in his or her office. A duplicate of said certificate shall be delivered to any purchaser, other than the district.

Sec. 588. RCW 89.30.721 and 1927 c 254 s 241 are each amended to read as follows:

A redemption of the property sold may be made by the owner or any person on behalf and in the name of the owner or by any party in interest within one year from the date of purchase by paying the amount of the purchase price, cost of certificate and interest and the amount of any assessments which any such purchaser may have paid thereon after purchase by him or her together with like interest on such amount, and if the reclamation district is the purchaser, the redemptioner shall pay in addition to the purchase price and interest, the amount of any assessments levied against said land during the period of redemption and which are at that time delinquent.

Sec. 589. RCW 89.30.724 and 1927 c 254 s 242 are each amended to read as follows:

Redemption must be made in gold or silver coin, as provided for the collection of state and county taxes, and the county treasurer must credit the amount paid to the person named in the certificate or his or her assignee and pay it on demand to such person or his or her assignee. No redemption shall be made except to the county treasurer of the county in which the land is situated.

Sec. 590. RCW 89.30.730 and 1927 c 254 s 244 are each amended to read as follows:

If the property is not redeemed within one year from the date of sale, the county treasurer of the county in which the land sold is situated, must make to the purchaser or his or her assignee a deed of the property reciting in the deed substantially the matters contained in the certificate and that no person redeemed the property during the time allowed by law for its redemption.

Sec. 591. RCW 89.30.790 and 1927 c 254 s 264 are each amended to read as follows:

Any officer of the district collecting tolls as herein provided, shall be required to give a surety bond in double the probable amount of monthly collections conditioned that he or she will faithfully account to the reclamation district for all tolls collected under the provisions of this chapter.

Sec. 592. RCW 90.03.040 and 1917 c 117 s 4 are each amended to read as follows:

The beneficial use of water is hereby declared to be a public use, and any person may exercise the right of eminent domain to acquire any property or rights now or hereafter existing when found necessary for the storage of water for, or the application of water to, any beneficial use, including the right to enlarge existing structures employed for the public purposes mentioned in this chapter and use the same in common with the former owner, and including the right and power to condemn an inferior use of water for a superior use. In condemnation proceedings the court shall determine what use will be for the greatest public benefit, and that use shall be deemed a superior one: PROVIDED, That no property right in water or the use of water shall be

acquired hereunder by condemnation for irrigation purposes, which shall deprive any person of such quantity of water as may be reasonably necessary for the irrigation of his or her land then under irrigation to the full extent of the soil, by the most economical method of artificial irrigation applicable to such land according to the usual methods of artificial irrigation employed in the vicinity where such land is situated. In any case, the court shall determine what is the most economical method of irrigation. Such property or rights shall be acquired in the manner provided by law for the taking of private property for public use by private corporations.

Sec. 593. RCW 90.03.070 and 1987 c 109 s 70 are each amended to read as follows:

It shall be the duty of the water master, acting under the direction of the department, to divide in whole or in part, the water supply of his or her district among the several water conduits and reservoirs using said supply, according to the right and priority of each, respectively. He or she shall divide, regulate, and control the use of water within his or her district by such regulation of headgates, conduits, and reservoirs as shall be necessary to prevent the use of water in excess of the amount to which the owner of the right is lawfully entitled. Whenever, in the pursuance of his or her duties, the water master regulates a headgate of a water conduit or the controlling works of a reservoir, he or she shall attach to such headgate or controlling works a written notice, properly dated and signed, stating that such headgate or controlling works has been properly regulated and is wholly under his or her control and such notice shall be a legal notice to all parties. In addition to dividing the available waters and supervising the stream (~~(patrolmen))~~ patroller in his or her district, he or she shall enforce such rules and regulations as the department shall from time to time prescribe.

The county or counties in which water master districts are created shall deputize the water masters appointed hereunder, and may without charge provide to each water master suitable office space, supplies, equipment, and clerical assistance as are necessary to the water master in the performance of his or her duties.

Sec. 594. RCW 90.03.210 and 2009 c 332 s 14 are each amended to read as follows:

(1) During the pendency of such adjudication proceedings prior to judgment or upon review by an appellate court, the stream or other water involved shall be regulated or partially regulated according to the schedule of rights specified in the department's report upon an order of the court authorizing such regulation: PROVIDED, Any interested party may file a bond and obtain an order staying the regulation of said stream as to him or her, in which case the court shall make such order regarding the regulation of the stream or other water as he or she may deem just. The bond shall be filed within five days following the service of notice of appeal in an amount to be fixed by the court and with sureties satisfactory to the court, conditioned to perform the judgment of the court.

(2) Any appeal of a decision of the department on an application to change or transfer a water right subject to an adjudication that is being litigated actively shall be conducted as follows:

(a) The appeal shall be filed with the court conducting the adjudication and served under RCW 34.05.542(3). The content of the notice of appeal shall conform to RCW 34.05.546. Standing to appeal shall be based on the requirements of RCW 34.05.530 and is not limited to parties to the adjudication.

(b) If the appeal includes a challenge to the portion of the department's decision that pertains to tentative determinations of the validity and extent of the water right, review of those tentative determinations shall be conducted by the court consistent with the provisions of RCW 34.05.510 through 34.05.598, except that the review shall be de novo.

(c) If the appeal includes a challenge to any portion of the department's decision other than the tentative determinations of the validity and extent of the right, the court must certify to the pollution control hearings board for review and decision those portions of the department's decision. Review by the pollution control hearings board shall be conducted consistent with chapter 43.21B RCW and the board's implementing regulations, except that the requirements for filing, service, and content of the notice of appeal shall be governed by (a) of this subsection. Any party to an appeal may move the court to certify portions of the appeal to the pollution control hearings board, but the appellant must file a motion for certification no later than ninety days after the appeal is filed under this section.

(d) Appeals shall be scheduled to afford all parties full opportunity to participate before the superior court and the pollution control hearings board.

(e) Any person wishing to appeal the decision of the board made under (c) of this subsection shall seek review of the decision in accordance with chapter 34.05 RCW, except that the petition for review must be filed with the superior court conducting the adjudication.

(3) Nothing in this section shall be construed to affect or modify any treaty or other federal rights of an Indian tribe, or the rights of any federal agency or other person or entity arising under federal law. Nothing in this section is intended or shall be construed as affecting or modifying any existing right of a federally recognized Indian tribe to protect from impairment its federally reserved water rights in federal court.

Sec. 595. RCW 90.03.220 and 1917 c 117 s 24 are each amended to read as follows:

Whenever proceedings shall be instituted for the determination of the rights to the use of water, any defendant who shall fail to appear in such proceedings, after legal service, and submit proof of his or her claim, shall be estopped from subsequently asserting any right to the use of such water embraced in such proceeding, except as determined by such decree.

Sec. 596. RCW 90.03.250 and 1987 c 109 s 83 are each amended to read as follows:

Any person, municipal corporation, firm, irrigation district, association, corporation or water users' association hereafter desiring to appropriate water for a beneficial use shall make an application to the department for a permit to make such appropriation, and shall not use or divert such waters until he or she has received a permit from the department as in this chapter provided. The construction of any ditch, canal or works, or performing any work in connection with said construction or appropriation, or the use of any waters, shall not be an

appropriation of such water nor an act for the purpose of appropriating water unless a permit to make said appropriation has first been granted by the department: PROVIDED, That a temporary permit may be granted upon a proper showing made to the department to be valid only during the pendency of such application for a permit unless sooner revoked by the department: PROVIDED, FURTHER, That nothing in this chapter contained shall be deemed to affect RCW 90.40.010 through 90.40.080 except that the notice and certificate therein provided for in RCW 90.40.030 shall be addressed to the department, and the department shall exercise the powers and perform the duties prescribed by RCW 90.40.030.

Sec. 597. RCW 90.03.270 and 1987 c 109 s 85 are each amended to read as follows:

Upon receipt of an application it shall be the duty of the department to make an endorsement thereon of the date of its receipt, and to keep a record of same. If upon examination, the application is found to be defective, it shall be returned to the applicant for correction or completion, and the date and the reasons for the return thereof shall be endorsed thereon and made a record in his or her office. No application shall lose its priority of filing on account of such defects, provided acceptable maps, drawings, and such data as is required by the department shall be filed with the department within such reasonable time as it shall require.

Sec. 598. RCW 90.03.410 and 1971 ex.s. c 152 s 8 are each amended to read as follows:

(1) Any person or persons who shall willfully interfere with, or injure or destroy any dam, dike, headgate, weir, canal or reservoir, flume, or other structure or appliance for the diversion, carriage, storage, apportionment, or measurement of water for irrigation, reclamation, power, or other beneficial uses, or who shall willfully use or conduct water into or through his or her ditch, which has been lawfully denied him or her by the water master or other competent authority, or shall willfully injure or destroy any telegraph, telephone, or electric transmission line, or any other property owned, occupied, or controlled by any person, association, or corporation, or by the United States and used in connection with said beneficial use of water, shall be guilty of a misdemeanor or, if there is actual physical injury to or destruction of any real or personal property, of property destruction and shall incur the penalties set forth in RCW 9.61.070.

(2) Any person or persons who shall willfully or unlawfully take or use water, or conduct the same into his or her ditch or to his or her land, or land occupied by him or her, and for such purpose shall cut, dig, break down, or open any headgate, bank, embankment, canal or reservoir, flume, or conduit, or interfere with, injure, or destroy any weir, measuring box, or other appliance for the apportionment and measurement of water, or unlawfully take or cause to run or pour out of such structure or appliance any water, shall be guilty of a misdemeanor or, if there is actual physical injury to or destruction of any real or personal property, of property destruction and shall incur the penalties set forth in RCW 9.61.070.

(3) The use of water through such structure or structures, appliance or appliances hereinbefore named after its or their having been interfered with,

injured or destroyed, shall be prima facie evidence of the guilt of the person using it.

Sec. 599. RCW 90.03.440 and 1987 c 109 s 97 are each amended to read as follows:

When two or more persons, joint owners in an irrigation ditch or reservoir, not incorporated, or their lessees, are unable to agree relative to the division or distribution of water received through their ditch or from their reservoir, and where there is no disagreement as to the ownership of said water, it shall be lawful for any such owner or owners, his or her or their lessee or lessees, or either of them, to apply to the department, in writing, setting forth such fact and giving such information as shall enable the department to estimate the probable expense of such service, asking the department to appoint some suitable person to take charge of such ditch or reservoir for the purpose of making a just division or distribution of the water from the same to the parties entitled to the use thereof. The department shall upon the receipt of such application notify the applicant of the probable expense of such division and upon receipt of certified check for said amount, the department shall appoint a suitable person to make such division. The person so appointed shall take exclusive charge of such ditch or reservoir for the purpose of dividing the water therefrom in accordance with the established rights of the diverters therefrom, and continue the said work until the necessity therefor shall cease to exist. The expense of such investigation and division shall be a charge upon all of the co-owners and the person advancing the payment to the department shall be entitled to recover in any court of competent jurisdiction from his or her co-owners their proportionate share of the expense.

Sec. 600. RCW 90.03.450 and 1919 c 71 s 5 are each amended to read as follows:

Upon the failure of any co-owner to pay his or her proportionate share of such expense as mentioned in RCW 90.03.430 within thirty days after receiving a statement of the same as performed by his or her co-owner or owners, such person or persons so performing such labor may secure payment of said claim by filing an itemized and sworn statement thereof, setting forth the date of the performance and the nature of the labor so performed, with the county auditor of the county wherein said ditch is situated, and when so filed it shall constitute a valid lien against the interest of such person or persons who shall fail to perform their proportionate share of the work requisite to the proper maintenance of said ditch, which said lien when so taken may be enforced in the same manner as provided by law for the enforcement of mechanics' and builders' liens.

Sec. 601. RCW 90.08.040 and 1977 c 22 s 1 are each amended to read as follows:

Where water rights of a stream have been adjudicated a stream ((~~patrolman~~)) patroller shall be appointed by the director of the department of ecology upon application of water users having adjudicated water rights in each particular water resource making a reasonable showing of the necessity therefor, which application shall have been approved by the district water master if one has been appointed, at such time, for such stream, and for such periods of service as local conditions may indicate to be necessary to provide the most practical supervision and to secure to water users and owners the best protection in their rights.

The stream (~~((patrolman))~~ patroller shall have the same powers as a water master appointed under RCW 90.03.060, but his or her district shall be confined to the regulation of waters of a designated stream or streams. Such (~~((patrolman))~~ patroller shall be under the supervision of the director or his or her designated representative. He or she shall also enforce such special rules and regulations as the director may prescribe from time to time.

Sec. 602. RCW 90.08.050 and 1977 c 22 s 2 are each amended to read as follows:

Each stream (~~((patrolman))~~ patroller shall receive a wage per day for each day actually employed in the duties of his or her office, or if employed by the month, he or she shall receive a salary per month, which wage or salary shall be fixed in the manner provided by law for the fixing of the salaries or compensation of other state officers or employees, plus travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, to be paid by the county in which the work is performed. In case the service extends over more than one county, each county shall pay its equitable part of such wage to be apportioned by the director. He or she shall be reimbursed for actual necessary expenses when absent from his or her designated headquarters in the performance of his or her duties, such expense to be paid by the county in which he or she renders the service. The accounts of the stream (~~((patrolman))~~ patroller shall be audited and certified by the director and the county auditor shall issue a warrant therefor upon the current expense fund.

Sec. 603. RCW 90.08.060 and 1977 c 22 s 3 are each amended to read as follows:

The salary of the stream (~~((patrolman))~~ patroller shall be borne by the water users receiving the benefits and shall be paid to the county or counties in the following manner:

The county or counties may assess each water user for his or her proportionate share of the total stream (~~((patrolman))~~ patroller expense in the same ratio that the amount of water diverted by him or her bears to the total amount diverted from the stream during each season, on an annual basis, to recover all such county expenses. The stream (~~((patrolman))~~ patroller shall keep an accurate record of the amount of water diverted by each water user coming under his or her supervision. On the first of each month the stream (~~((patrolman))~~ patroller shall present his or her record of water diversion to the county or counties for the preceding month. Where the water users are organized into an irrigation district or water users' association, such organization may enter into an agreement with the county or counties for direct payment to the stream (~~((patrolman))~~ patroller in order to minimize administrative costs.

Sec. 604. RCW 90.08.070 and 1977 c 22 s 4 are each amended to read as follows:

Upon failure of any water user to pay his or her proportionate share of the expense referred to in RCW 90.08.050 and 90.08.060, the county or counties shall be entitled to sue for and recover any such unpaid portion in any court of competent jurisdiction.

Sec. 605. RCW 90.14.061 and 1988 c 127 s 74 are each amended to read as follows:

Filing of a statement of a claim shall take place and be completed upon receipt by the department of ecology, at its office in Olympia, of an original statement signed by the claimant or his or her authorized agent, and two copies thereof. Any person required to file hereunder may file through a designated representative. A company, district, public or municipal corporation, or the United States when furnishing to persons water pertaining to water rights required to be filed under RCW 90.14.041, shall have the right to file one claim on behalf of said persons on a form prepared by the department for the total benefits of each person served; provided that a separate claim shall be filed by such company, district, public or private corporation, or the United States for each operating unit of the filing entity providing such water and for each water source. Within thirty days after receipt of a statement of claim the department shall acknowledge the same by a notation on one copy indicating receipt thereof and the date of receipt, together with the wording of the first sentence of RCW 90.14.081, and shall return said copy by certified or registered mail to the claimant at the address set forth in the statement of claim. No statement of claim shall be accepted for filing by the department of ecology unless accompanied by a two dollar filing fee.

Sec. 606. RCW 90.14.101 and 1988 c 127 s 76 are each amended to read as follows:

To insure that all persons referred to in RCW 90.14.031 and 90.14.041 are notified of the registration provisions of this chapter, the department of ecology is directed to give notice of the registration provisions of this chapter as follows:

(1) It shall cause a notice in writing to be placed in a prominent and conspicuous place in all newspapers of the state having a circulation of more than fifty thousand copies for each week day, and in at least one newspaper published in each county of the state, at least once each year for five consecutive years.

(2) It shall cause a notice substantially the same as a notice in writing to be broadcast by each commercial television station operating in the United States and viewed in the state, and by at least one commercial radio station operating from each county of the state having such a station regularly at six month intervals for five consecutive years.

(3) It shall cause a notice in writing to be placed in a prominent and conspicuous location in each county court house in the state.

(4) The county treasurer of each county shall enclose with each mailing of one or more statements of taxes due issued in 1972 a copy of a notice in writing and a declaration that it shall be the duty of the recipient of the statement of taxes due to forward the notice to the beneficial owner of the property. A sufficient number of copies of the notice and declaration shall be supplied to each county treasurer by the director of ecology before the fifteenth day of January, 1972. In the implementation of this subsection the department of ecology shall provide reimbursement to the county treasurer for the reasonable additional costs, if any there may be, incurred by said treasurer arising from the inclusion of a notice in writing as required herein.

(5) It shall provide copies of the notice in writing to the press services with offices located in Thurston county during January of the years 1970, 1971, 1972, 1973, and 1974.

The director of the department may also in his or her discretion give notice in any other manner which will carry out the purposes of this section. Where notice in writing is given pursuant to subsections (1) and (3) of this section, RCW 90.14.041, 90.14.051, and 90.14.071 shall be set forth and quoted in full.

Sec. 607. RCW 90.14.130 and 1987 c 109 s 13 are each amended to read as follows:

When it appears to the department of ecology that a person entitled to the use of water has not beneficially used his or her water right or some portion thereof, and it appears that said right has or may have reverted to the state because of such nonuse, as provided by RCW 90.14.160, 90.14.170, or 90.14.180, the department of ecology shall notify such person by order: PROVIDED, That where a company, association, district, or the United States has filed a blanket claim under the provisions of RCW 90.14.060 for the total benefits of those served by it, the notice shall be served on such company, association, district or the United States and not upon any of its individual water users who may not have used the water or some portion thereof which they were entitled to use. The order shall contain: (1) A description of the water right, including the approximate location of the point of diversion, the general description of the lands or places where such waters were used, the water source, the amount involved, the purpose of use, and the apparent authority upon which the right is based; (2) a statement that unless sufficient cause be shown on appeal the water right will be declared relinquished; and (3) a statement that such order may be appealed to the pollution control hearings board. Any person aggrieved by such an order may appeal it to the pollution control hearings board pursuant to RCW 43.21B.310. The order shall be served by registered or certified mail to the last known address of the person and be posted at the point of division or withdrawal. The order by itself shall not alter the recipient's right to use water, if any.

Sec. 608. RCW 90.14.170 and 1967 c 233 s 17 are each amended to read as follows:

Any person entitled to divert or withdraw waters of the state by virtue of his or her ownership of land abutting a stream, lake, or watercourse, who abandons the same, or who voluntarily fails, without sufficient cause, to beneficially use all or any part of said right to withdraw or divert said water for any period of five successive years after July 1, 1967, shall relinquish such right or portion thereof, and such right or portion thereof shall revert to the state, and the waters affected by said right shall become available for appropriation in accordance with the provisions of RCW 90.03.250.

Sec. 609. RCW 90.24.020 and 1939 c 107 s 3 are each amended to read as follows:

Such petition shall contain a complete description of the property surrounding said lake with the number of front feet contained in each tract with the name of the owner thereof and his or her address together with a brief statement of the reasons and necessity for such application; that the level sought to be established will in no wise interfere with the navigability of said lake or in any manner affect or interfere with fish or game fish which may be then contained or may thereafter be deposited in said lake, but that in order to protect fish or game fish in said lake the construction of fish ladders or other devices

may be required to conserve and protect such fish or game fish, then in that event the property owners to be benefited by the establishment of said water level in such lake shall be required to pay the cost thereof, in proportion to lineal feet of water front owned by each.

Sec. 610. RCW 90.24.050 and 1988 c 127 s 82 are each amended to read as follows:

In the event the court shall find that to protect fish and game fish in said lake that fish ladders or other devices should be constructed therein or that other construction shall be necessary in order to maintain the determined lake level, the court shall find the proper device to be constructed, the probable cost thereof and by its order and judgment shall apportion the cost thereof among the persons whose property abuts on said lake in proportion to the lineal feet of waterfront owned by each, which sum so found shall constitute a lien against said real property and shall be paid to the county treasurer and by him or her placed in a special fund to be known as "Lake Improvement Fund." The director of ecology shall appoint a suitable person to be compensated by the property owners to regulate the determined level as decreed by the court.

Sec. 611. RCW 90.44.110 and 1987 c 109 s 114 are each amended to read as follows:

No public groundwaters that have been withdrawn shall be wasted without economical beneficial use. The department shall require all wells producing waters which contaminate other waters to be plugged or capped. The department shall also require all flowing wells to be so capped or equipped with valves that the flow of water can be completely stopped when the wells are not in use under the terms of their respective permits or approved declarations of vested rights. Likewise, the department shall also require both flowing and nonflowing wells to be so constructed and maintained as to prevent the waste of public groundwaters through leaky casings, pipes, fittings, valves, or pumps—either above or below the land surface: PROVIDED, HOWEVER, That the withdrawal of reasonable quantities of public groundwater in connection with the construction, development, testing, or repair of a well shall not be construed as waste; also, that the inadvertent loss of such water owing to breakage of a pump, valve, pipe, or fitting shall not be construed as waste if reasonable diligence is shown by the permittee in effecting the necessary repair.

In the issuance of an original permit, or of an amendment to an original permit or certificate of vested right to withdraw and appropriate public groundwaters under the provisions of this chapter, the department may, as in his or her judgment is necessary, specify for the proposed well or wells or other works a manner of construction adequate to accomplish the provisions of this section.

Sec. 612. RCW 90.44.130 and 1987 c 109 s 116 are each amended to read as follows:

As between appropriators of public groundwater, the prior appropriator shall as against subsequent appropriators from the same groundwater body be entitled to the preferred use of such groundwater to the extent of his or her appropriation and beneficial use, and shall enjoy the right to have any withdrawals by a subsequent appropriator of groundwater limited to an amount that will maintain and provide a safe sustaining yield in the amount of the prior

appropriation. The department shall have jurisdiction over the withdrawals of groundwater and shall administer the groundwater rights under the principle just set forth, and it shall have the jurisdiction to limit withdrawals by appropriators of groundwater so as to enforce the maintenance of a safe sustaining yield from the groundwater body. For this purpose, the department shall have authority and it shall be its duty from time to time, as adequate factual data become available, to designate groundwater areas or subareas, to designate separate depth zones within any such area or subarea, or to modify the boundaries of such existing area, or subarea, or zones to the end that the withdrawals therefrom may be administratively controlled as prescribed in RCW 90.44.180 in order that overdraft of public groundwaters may be prevented so far as is feasible. Each such area or zone shall, as nearly as known facts permit, be so designated as to enclose a single and distinct body of public groundwater. Each such subarea may be so designated as to enclose all or any part of a distinct body of public groundwater, as the department deems will most effectively accomplish the purposes of this chapter.

Designation of, or modification of the boundaries of such a groundwater area, subarea, or zone may be proposed by the department on its own motion or by petition to the department signed by at least fifty or one-fourth, whichever is the lesser number, of the users of groundwater in a proposed groundwater area, subarea, or zone. Before any proposed groundwater area, subarea, or zone shall be designated, or before the boundaries or any existing groundwater area, subarea, or zone shall be modified the department shall publish a notice setting forth: (1) In terms of the appropriate legal subdivisions a description of all lands enclosed within the proposed area, subarea, or zone, or within the area, subarea, or zone whose boundaries are proposed to be modified; (2) the object of the proposed designation or modification of boundaries; and (3) the day and hour, and the place where written objections may be submitted and heard. Such notice shall be published in three consecutive weekly issues of a newspaper of general circulation in the county or counties containing all or the greater portion of the lands involved, and the newspaper of publication shall be selected by the department. Publication as just prescribed shall be construed as sufficient notice to the landowners and water users concerned.

Objections having been heard as herein provided, the department shall make and file in its office written findings of fact with respect to the proposed designation or modification and, if the findings are in the affirmative, shall also enter a written order designating the groundwater area, or subarea, or zone or modifying the boundaries of the existing area, subarea, or zone. Such findings and order shall also be published substantially in the manner herein prescribed for notice of hearing, and when so published shall be final and conclusive unless an appeal therefrom is taken within the period and in the manner prescribed by RCW 43.21B.310. Publication of such findings and order shall give force and effect to the remaining provisions of this section and to the provisions of RCW 90.44.180, with respect to the particular area, subarea, or zone.

Priorities of right to withdraw public groundwater shall be established separately for each groundwater area, subarea, or zone and, as between such rights, the first in time shall be the superior in right. The priority of the right acquired under a certificate of groundwater right shall be the date of filing of the original application for a withdrawal with the department, or the date or

approximate date of the earliest beneficial use of water as set forth in a certificate of a vested groundwater right, under the provisions of RCW 90.44.090.

Within ninety days after the designation of a groundwater area, subarea, or zone as herein provided, any person, firm, or corporation then claiming to be the owner of artificially stored groundwater within such area, subarea, or zone shall file a certified declaration to that effect with the department on a form prescribed by the department. Such declaration shall cover: (1) The location and description of the works by whose operation such artificial groundwater storage is purported to have been created, and the name or names of the owner or owners thereof; (2) a description of the lands purported to be underlain by such artificially stored groundwater, and the name or names of the owner or owners thereof; (3) the amount of such water claimed; (4) the date or approximate date of the earliest artificial storage; (5) evidence competent to show that the water claimed is in fact water that would have been dissipated naturally except for artificial improvements by the claimant; and (6) such additional factual information as reasonably may be required by the department. If any of the purported artificially stored groundwater has been or then is being withdrawn, the claimant also shall file (1) the declarations which this chapter requires of claimants to a vested right to withdraw public groundwaters, and (2) evidence competent to show that none of the water withdrawn under those declarations is in fact public groundwater from the area, subarea, or zone concerned: PROVIDED, HOWEVER, That in case of failure to file a declaration within the ninety-day period herein provided, the claimant may apply to the department for a reasonable extension of time, which shall not exceed two additional years and which shall be granted only upon a showing of good cause for such failure.

Following publication of the declaration and findings—as in the case of an original application, permit, or certificate of right to appropriate public groundwaters—the department shall accept or reject such declaration or declarations with respect to ownership or withdrawal of artificially stored groundwater. Acceptance of such declaration or declarations by the department shall convey to the declarant no right to withdraw public groundwaters from the particular area, subarea, or zone, nor to impair existing or subsequent rights to such public waters.

Any person, firm, or corporation hereafter claiming to be the owner of groundwater within a designated groundwater area, subarea, or zone by virtue of its artificial storage subsequent to such designation shall, within three years following the earliest artificial storage file a declaration of claim with the department, as herein prescribed for claims based on artificial storage prior to such designation: PROVIDED, HOWEVER, That in case of such failure the claimant may apply to the department for a reasonable extension of time, which shall not exceed two additional years and which shall be granted upon a showing of good cause for such failure.

Any person, firm, or corporation hereafter withdrawing groundwater claimed to be owned by virtue of artificial storage subsequent to designation of the relevant groundwater area, subarea, or zone shall, within ninety days following the earliest such withdrawal, file with the department the declarations required by this chapter with respect to withdrawals of public groundwater.

Sec. 613. RCW 90.48.095 and 1991 c 200 s 1103 are each amended to read as follows:

In carrying out the purposes of this chapter or chapter 90.56 RCW the department shall, in conjunction with either the adoption of rules, consideration of an application for a waste discharge permit or the termination or modification of such permit, or proceedings in adjudicative hearings, have the authority to issue process and subpoena witnesses effective throughout the state on its own behalf or that of an interested party, compel their attendance, administer oaths, take the testimony of any person under oath and, in connection therewith require the production for examination of any books or papers relating to the matter under consideration by the department. In case of disobedience on the part of any person to comply with any subpoena issued by the department, or on the refusal of any witness to testify to any matters regarding which he or she may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the department, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. In connection with the authority granted under this section no witness or other person shall be required to divulge trade secrets or secret processes. Persons responding to a subpoena as provided herein shall be entitled to fees as are witnesses in superior court.

Sec. 614. RCW 90.58.170 and 1994 c 253 s 1 are each amended to read as follows:

A shorelines hearings board sitting as a quasi-judicial body is hereby established within the environmental and land use hearings office under RCW 43.21B.005. The shorelines hearings board shall be made up of six members: Three members shall be members of the pollution control hearings board; two members, one appointed by the association of Washington cities and one appointed by the association of county commissioners, both to serve at the pleasure of the associations; and the commissioner of public lands or his or her designee. The ~~((chairman))~~ chair of the pollution control hearings board shall be the ~~((chairman))~~ chair of the shorelines hearings board. Except as provided in RCW 90.58.185, a decision must be agreed to by at least four members of the board to be final. The members of the shorelines ~~((hearings))~~ hearings board shall receive the compensation, travel, and subsistence expenses as provided in RCW 43.03.050 and 43.03.060.

Sec. 615. RCW 91.08.030 and 1911 c 23 s 3 are each amended to read as follows:

The plan of such proposed waterway shall be presented to the board by a written petition of owners of lands which it is represented will be improved by the construction, deepening or widening of such waterway; and such petition shall be signed by the owners of thirty-five percent or more of the area of lands in the district, and shall be verified by one or more of the petitioners to the effect that the signatures attached are the genuine signature of the persons or corporations signing the same. Each petitioner shall add a description of the lands he or she owns. If petitioners are unmarried persons they shall so state. If lands are owned by married persons, husband and wife shall join in the petition. If a petitioner is a corporation, the signature shall be accompanied by a certified

copy of a resolution of the board of directors or trustees of the corporation authorizing the person signing the petition for the corporation to execute it. If lands included in the petition are owned by minors, insane persons, or other persons under guardianship in this state, the petition may be signed by the guardians of such persons: PROVIDED, That the signature be accompanied by a certified copy of an order of the superior court having the guardianship of such person in charge, authorizing the guardian to sign the petition. A petition may consist of one or more separate papers or sheets which are identified with the subject matter.

The petitioners shall file with the board, with their petition, a map of the lands in the district and a statement showing each separate ownership of lands as shown by the public records of the county, and their location in the county, with the names of the owners as shown by such records, and the location of the proposed waterway if a new waterway is to be constructed. If an existing waterway is to be deepened the map shall show its location, and if it is to be widened the map shall show its location and the extent to which it is to be widened. With the petition there shall also be presented satisfactory evidence from the real property records of the county that the petitioners are severally the owners in fee simple of their respective tracts of land, and that all taxes and assessments due thereon are paid. If it is proposed that any lands in the district shall be filled with the material dug or dredged from such waterway, the petition shall so state, and the map of the district and plan of the improvement shall show the location, depth, and yardage of such fill. The petition may also fix the price per cubic yard at which such fill shall be charged to the land filled, which charge shall be added to the assessment for the improvement to be made upon such lands and be paid as a part thereof. If the price of filling is not fixed by the petition it may be fixed by the board.

At any time after the filing of such petition one or more of the petitioners may file and record in the office of the auditor of the county, notice of the pendency of the proceeding, describing the boundaries of the proposed district, and from the time of such filing all persons shall be deemed to have notice of the pendency of the proceeding and be bound thereby. Upon the hearing upon such petition, hereinafter provided, if the same be denied any person interested may file in the office of said county auditor a certified copy of the order denying the same, whereupon the auditor shall enter the discharge of the notice of the pendency of the proceeding on the margin of the record thereof. And the like discharge may be filed whenever the proceeding is terminated for any other reason.

Sec. 616. RCW 91.08.080 and 1911 c 23 s 6 are each amended to read as follows:

At the time and place prescribed in the said notice any owner of land within said proposed improvement district may file with the board his or her written consent to the proposed improvement, and he or she shall then be considered as a petitioner; and if the owners of more than one half of the lands within the district, including the lands represented by the petition, shall assent to the prayer of said petition, the board shall then proceed to hear and consider any objections which may have been filed at that or any previous time, and may adjourn such hearing from day to day. If the board after full hearing on the merits of the proposed waterway shall be satisfied that the same will be of benefit to the

public interests, and that private benefit will result to the lands within the district sufficient to equal the cost of the proposed improvement, they may make findings accordingly and declare their intention to establish the waterway district under the name of the ". . . . Waterway District" and make the improvement as prayed for; but if the owners of less than one half of the lands in the district shall assent to the creation thereof and the making of the proposed improvement, the board shall deny the petition and the proceeding shall be dismissed.

Sec. 617. RCW 91.08.130 and 1911 c 23 s 11 are each amended to read as follows:

The board shall file a petition, verified by its (~~chairman~~) chair and signed by the prosecuting attorney, in the superior court of the county, praying that the property described may be taken or damaged for the purpose specified and that compensation therefor be ascertained by a jury or by the court in case a jury be waived. Such petition shall allege the creation of the waterway district and contain a copy of the order directing the proceeding, a reasonably accurate description of the lots or parcels of land or other property which will be taken or damaged, and the names of the owners and occupants of said lands and of said persons having any interest therein so far as known to the said board, or as appears from the records in the office of the county auditor.

Sec. 618. RCW 91.08.150 and 1911 c 23 s 13 are each amended to read as follows:

In case the land or other property sought to be taken or damaged is state land, the summons and copy of petition shall be served upon the commissioner of public lands; if it is county land it shall be served upon the county auditor, and if school land, upon the county auditor and the (~~chairman~~) chair of the board of directors of the school district. Service upon other parties defendant, public or private, shall be made in the same manner as is or shall be provided by law for service of summons in other civil actions. If the state is made a defendant the attorney general shall represent it. If the county is a defendant the court shall appoint an attorney to represent it at all stages of the proceedings, and may allow him or her compensation for his or her services as costs of the proceeding.

Sec. 619. RCW 91.08.170 and 1911 c 23 s 15 are each amended to read as follows:

The jury or court shall also ascertain the just compensation to be paid to any person found to have an interest in any lot or parcel of land or property which may be taken or damaged for such improvement, whether or not such person's name or such lot or parcel of land or other property is mentioned or described in said petition: PROVIDED, That such person shall first be admitted as a party defendant to such suit by such court and shall file a statement of his or her interest in, and a description of, the lot or parcel of land or other property in respect to which he or she claims compensation.

Sec. 620. RCW 91.08.220 and 1911 c 23 s 20 are each amended to read as follows:

The court shall have power at any time, upon proof that any defendant who has not been served with process has ceased to be an owner since the filing of such petition, to substitute the new owner as a defendant, and after due service of the summons and petition upon him or her proceed as though he or she had been a party in the first instance; and the court may upon any finding of the jury, or at

any time during the course of the proceedings, enter every such order, rule, judgment, or decree as the nature of the case may require.

Sec. 621. RCW 91.08.250 and 1988 c 202 s 94 are each amended to read as follows:

Any final judgment rendered by said court upon the findings of the court or a jury, shall be the lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases: **PROVIDED**, That in case any defendant recovers no award, no costs shall be taxed. Such judgment shall be final and conclusive as to the damages caused by such improvement, unless appellate review is sought, and no review shall delay proceedings under the order of said board if it shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs; but such board after making such payment into court shall be liable to such owner or owners, or parties interested, for the payment of any further compensation which may at any time be finally awarded to such parties seeking review in said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor and abide any rule or order of the court in relation to the matter in controversy. In case of review by the supreme court or the court of appeals of the state, the money so paid into the superior court by the board, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises, or other property, accepts the sum awarded by the jury or the court, he or she shall be deemed thereby to have waived conclusively appellate review and final judgment may be rendered in the superior court as in other cases.

**Sec. 622. RCW 91.08.250 and 1988 c 202 s 94 are each amended to read as follows:*

*Any final judgment rendered by said court upon the findings of the court or a jury, shall be the lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases: **PROVIDED**, That in case any defendant recovers no award, no costs shall be taxed. Such judgment shall be final and conclusive as to the damages caused by such improvement, unless appellate review is sought, and no review shall delay proceedings under the order of said board if it shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs; but such board after making such payment into court shall be liable to such owner or owners, or parties interested, for the payment of any further compensation which may at any time be finally awarded to such parties seeking review in said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor and abide any rule or order of the court in relation to the matter in controversy. In case of review by the supreme court or the court of appeals of the state, the money so paid into the superior court by the board, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises, or other property, accepts the sum awarded by the jury or the court,*

he or she shall be deemed thereby to have waived conclusively appellate review and final judgment may be rendered in the superior court as in other cases.

*Sec. 622 was vetoed. See message at end of chapter.

Sec. 623. RCW 91.08.280 and 1911 c 23 s 26 are each amended to read as follows:

Said commissioners, before entering upon their duties, shall take and subscribe an oath that they will faithfully perform the duties of the office to which they are appointed, and will to the best of their abilities make true and impartial assessments according to the law. Every commissioner shall receive compensation at the rate of five dollars per day for each day actually spent in making the assessment herein provided for, upon his or her filing in the proceeding a verified statement showing the number of days he or she has actually spent therein; and upon the approval of said statement by the judge of the court in which the proceeding is pending, the board shall issue a warrant in the amount so approved, upon the special fund created to pay the awards and costs of said proceeding; and the fees of such commissioners so paid, and all expenses returned by them and allowed by the court shall be included in the cost and expense of such proceeding.

Sec. 624. RCW 91.08.340 and 1911 c 23 s 32 are each amended to read as follows:

Any person interested in any property assessed and desiring to object to the assessment thereon, shall file his or her objections to such report at any time before the day set for hearing said roll, and serve a copy thereof upon the prosecuting attorney. As to all property to the assessment upon which no objections are filed and served, as herein provided, default may be entered and the assessment confirmed by the court. On the hearing of objections the report of the commissioners shall be competent evidence to support the assessment, but either party may introduce such other evidence as may tend to establish the right of the matter. The hearing shall be conducted as in other cases at law tried by the court without a jury; and if it shall appear that the property of the objector is assessed more or less than it will be benefited, or more or less than its proportionate share of the cost of the condemnation and improvement, the court shall so find, and it shall also find the amount in which said property ought to be assessed and correct the assessment accordingly. Judgment shall be entered confirming the assessment roll as originally filed or as corrected, as the case may require.

Sec. 625. RCW 91.08.370 and 1911 c 23 s 35 are each amended to read as follows:

The clerk of the court in which such judgment is rendered shall certify a copy of the assessment roll as confirmed, and of the judgment confirming the same, to the treasurer of the county, or if there has been an appeal taken from any part of such judgment, then he or she shall certify such part of the roll and judgment as is not included in such appeal, and the remainder when final judgment is entered: PROVIDED, That if upon such appeal the judgment of the superior court shall be affirmed, the assessments on such property as to which appeal has been taken shall bear interest at the same rate and from the same date which other assessments not paid within the time hereafter provided shall bear. Such copy of the assessment roll shall be sufficient warrant to the county

treasurer to collect the assessments therein specified in the manner hereinafter provided.

Sec. 626. RCW 91.08.390 and 1911 c 23 s 37 are each amended to read as follows:

The owner of any land charged with an assessment under this chapter, may discharge the same from all liability for the cost of such condemnation and improvement by paying the entire assessment charged against his or her land, without interest, within the time fixed by the notice of the county treasurer for the payment thereof; or within said time he or she may pay a part of such assessment and allow the remainder to continue as an assessment upon his or her land to be collected and paid as hereinafter provided; or within said time he or she may pay the entire assessment per square foot upon any part of his or her land, providing that he or she shall when paying such partial assessment give to the treasurer a description of the tract paid for.

Sec. 627. RCW 91.08.400 and 1911 c 23 s 38 are each amended to read as follows:

When any assessment shall be paid either in full or in part only, within the time for payment without interest fixed by his or her notice, the treasurer shall note the fact of such payment opposite the assessment.

Sec. 628. RCW 91.08.410 and 1981 c 156 s 34 are each amended to read as follows:

Immediately after the expiration of the time fixed by his or her notice for payment of assessments without interest, the treasurer shall divide the several assessments which remain unpaid in whole or in part into ten equal amounts or installments, as near as may be, without fractional cents, and enter said installments upon the roll opposite the several assessments, numbering the same from one to ten successively. And thereafter said treasurer shall annually for ten years, before the time fixed by law for the collection of state and county taxes, add one of the said assessment installments with interest for one year from the expiration of the time for payment without interest, or of the anniversary thereof, at a rate determined by the board on the entire unpaid assessment, to the tax levied upon the property assessed, where said tax appears upon the county tax roll, and collect said installment and interest, without reduction of percentage for prepayment, at the same time and in the same manner as state and county taxes are collected. And after delinquency said installments and interest shall be subject to the same charges for increased interest and penalties as are other delinquent taxes. But no tax sale of lands assessed under this chapter shall discharge the same from the lien of any unpaid installments of the assessment against it until all installments and interest are fully paid.

Sec. 629. RCW 91.08.430 and 1981 c 156 s 35 are each amended to read as follows:

The owner of any lands assessed under this chapter may at any time after the time fixed by the treasurer's notice for payment without interest, discharge his or her lands from the unpaid assessment by paying the principal of all installments unpaid with interest thereon at a rate determined by the board to the next anniversary of the time fixed as aforesaid; or he or she may pay one or more installments, with like interest, beginning with installment number ten and continuing in the inverse numerical order of installments. The successor in title

to any part of his or her lands may have the proportionate assessment segregated on the roll and charged to such part upon his or her producing to the treasurer his or her recorded deed to such part.

Sec. 630. RCW 91.08.460 and 1911 c 23 s 44 are each amended to read as follows:

Immediately after expiration of the time fixed by the treasurer for the payment of assessments levied under this chapter, he or she shall report to the board in writing the sum collected by him or her and in his or her hands to the credit of the assessment roll; and thereafter and on or before the first days of January and July in each year he or she shall make written reports to said board of the sums collected by him or her upon said roll, stating in detail the amount of principal, interest, and penalty so collected, the amount of principal remaining uncollected, and also, in detail, the principal and interest paid out by him or her under authority of the board, and the balance in his or her hands to the credit of the roll.

Sec. 631. RCW 91.08.500 and 1985 c 469 s 98 are each amended to read as follows:

The treasurer shall pay the interest on the bonds authorized to be issued by this chapter, on presentation of matured coupons therefor, out of the funds of the district in his or her hands. Whenever there shall be sufficient money in any such fund (not less than one thousand dollars) over and above sufficient for the payment of matured interest on all outstanding bonds, to pay the principal of one or more bonds, the treasurer shall call in and pay the bonds in their numerical order: PROVIDED, That the call for bonds shall be made by publication in the official newspaper of the county within five days after the semiannual interest period, and shall state that bonds numbered (giving the serial numbers of the bonds called) will be paid on presentation; and that after a date named, not more than fifteen days thereafter, interest on the bonds called shall cease.

Sec. 632. RCW 91.08.510 and 1983 c 167 s 269 are each amended to read as follows:

The owner of any bond issued under authority of this chapter shall not have any claim therefor against any person, body, or corporation, except from the special assessment made for the improvement for which such bond was issued; but his or her remedy in case of nonpayment shall be confined to the enforcement of such assessment. A copy of this section shall be plainly written, printed, or engraved on each bond so issued.

Sec. 633. RCW 91.08.550 and 1911 c 23 s 54 are each amended to read as follows:

The indebtedness of any such district on contracts, or upon employment or for supplies, shall be paid by warrants on the district fund only, to be issued by the board upon allowed written claims. Such warrants shall be in form the same as county warrants, or as nearly the same as may be practicable; shall draw the legal rate of interest from the date of their presentation to the county treasurer for payment, and shall be signed by the (~~chairman~~) chair and attested by the clerk: PROVIDED, That no warrants shall be issued in payment of any indebtedness of such district for less than the face or par value.

Sec. 634. RCW 91.08.560 and 1911 c 23 s 55 are each amended to read as follows:

All warrants issued under RCW 91.08.550 may be presented by the holders thereof to the county treasurer, who shall pay them or endorse thereon the date of presentation for payment and if the same are not paid, and the reason for their nonpayment; and no warrant shall draw interest until it is so presented and endorsed by the county treasurer. It shall be the duty of the treasurer from time to time, when he or she has sufficient funds in his or her hands for the purpose, to give notice to warrant holders to present their warrants for payment; such notice to be given by advertisement in the county newspaper. And thirty days after the first publication of said notice the warrants called shall cease to bear interest. Said notice shall be published once each week for two weeks consecutively, and such warrants shall be called and paid in the order of their endorsement.

Sec. 635. RCW 91.08.590 and 1911 c 23 s 59 are each amended to read as follows:

Any defendant in a condemnation proceeding under this chapter, whose remaining land, or whose other lands in the district, shall be assessed for benefits arising from the improvement, may pay his or her assessments in full, if they be less than his or her condemnation judgment, at or before the time fixed by the treasurer for the payment of assessments without interest, by satisfying his or her judgment upon the judgment docket and producing to the treasurer the certificate of the county clerk that the judgment has been satisfied. And if his or her assessments be greater than his or her condemnation judgments he or she may, within the same time, pay his or her assessment to the extent of his or her judgment by the like satisfaction and the like production of the clerk's certificate to the treasurer. In each case the treasurer shall note the payment and the manner thereof on the assessment roll and report the same to the board.

Sec. 636. RCW 91.08.600 and 1911 c 23 s 60 are each amended to read as follows:

At any time before the completion of excavations required for the construction, deepening, or widening of a waterway under this chapter, when there will be surplus material dug or dredged from such waterway, any owner of land within the district, for the filling of whose land no provision has theretofore been made, may have such surplus material delivered upon his or her land for filling purposes upon paying the cost of such delivery in a sum to be fixed by the board. The sum so fixed shall be paid to the treasurer at such time and in such manner as the board may prescribe, and shall be credited to the district fund.

Sec. 637. RCW 91.08.620 and 1911 c 23 s 62 are each amended to read as follows:

Should any sum of money paid into court as compensation or damages for land or property taken or damaged in any condemnation proceeding under this chapter be uncalled for the period of two years, the county clerk shall satisfy the judgment therefor and pay the money in his or her hands to the treasurer for the road fund of the county. But upon application to the board of county commissioners within four years after such payment, the party entitled thereto shall be paid such money by the county without interest: PROVIDED, That if any such party, being a natural person, was under legal disabilities when such money was paid to the treasurer, the time within which he or she or his or her

legal representatives shall make application for the payment thereof shall not expire until one year after his or her death or the removal of his or her disabilities.

NEW SECTION. Sec. 638. Section 42 of this act expires December 1, 2013.

NEW SECTION. Sec. 639. Section 43 of this act takes effect December 1, 2013.

Passed by the Senate February 8, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 22, 2013, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 23, 2013.

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

"I am returning, without my approval as to Sections 371 and 622, Substitute Senate Bill 5077 entitled:

"AN ACT Relating to technical corrections to gender-based terms."

Section 371 is identical to Section 370. Section 622 is identical to Section 621.

For these reasons, I have vetoed Sections 371 and 622 of Substitute Senate Bill 5077.

With the exception of Sections 371 and 622, Substitute Senate Bill 5077 is approved."

CHAPTER 24

[Engrossed Substitute Senate Bill 5110]

LOCAL GOVERNMENT—PURCHASING

AN ACT Relating to local government purchasing of supplies, materials, or equipment; and amending RCW 39.30.040.

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

Sec. 1. RCW 39.30.040 and 1989 c 431 s 58 are each amended to read as follows:

(1) Whenever a unit of local government is required to make purchases from the lowest bidder or from the supplier offering the lowest price for the items desired to be purchased, the unit of local government may, at its option when awarding a purchase contract, take into consideration tax revenue it would receive from purchasing the supplies, materials, or equipment from a supplier located within its boundaries. The unit of local government must award the purchase contract to the lowest bidder after such tax revenue has been considered. However, any local government may allow for preferential purchase of products made from recycled materials or products that may be recycled or reused. ~~((The tax revenues which units of local government may consider include sales taxes that the unit of local government imposes upon the sale of such supplies, materials, or equipment from the supplier to the unit of local government, and business and occupation taxes that the unit of local government imposes upon the supplier that are measured by the gross receipts of the supplier from such sale.))~~ Any unit of local government which considers tax revenue((s)) it would receive from the imposition of taxes upon a supplier located within its

boundaries(~~(, shall)~~) must also consider tax revenue(~~(s)~~) it would receive from taxes it imposes upon a supplier located outside its boundaries.

(2) (~~As used in this section, the term~~) A unit of local government may award a contract to a bidder submitting the lowest bid before taxes are applied. The unit of local government must provide notice of its intent to award a contract based on this method prior to bids being submitted. For the purposes of this subsection (2), "taxes" means only those taxes that are included in "tax revenue" as defined in this section.

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

(a) "Tax revenue" means sales taxes that units of local government impose upon the sale of supplies, materials, or equipment from the supplier to units of local government, and business and occupation taxes that units of local government impose upon the supplier that are measured by the gross receipts of the supplier from the sale.

(b) "Unit of local government" means any county, city, town, metropolitan municipal corporation, public transit benefit area, county transportation authority, or other municipal or quasi-municipal corporation authorized to impose sales and use taxes or business and occupation taxes.

Passed by the Senate February 8, 2013.

Passed by the House April 12, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 25

[Senate Bill 5114]

K-12 SCHOOLS—OCCUPATIONAL EDUCATION INFORMATION

AN ACT Relating to access to K-12 campuses for occupational or educational information; and amending RCW 28A.230.180.

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

Sec. 1. RCW 28A.230.180 and 1980 c 96 s 1 are each amended to read as follows:

If the board of directors of a school district provides access to the campus and the student information directory to persons or groups which make students aware of occupational or educational options, the board shall provide access (~~on the same basis~~) to official recruiting representatives of the job corps, peace corps, and AmeriCorps, and to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military, which must be equal to and no less than access provided to other postsecondary occupational or educational representatives. As used in this section, "access" includes, but is not limited to, the number of days provided and the type of presentation space.

Passed by the Senate March 4, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 26

[Senate Bill 5142]

TRANSPORTATION PLANNING—MOTORCYCLES

AN ACT Relating to incorporating motorcycles into certain transportation planning; and amending RCW 70.94.531, 46.61.165, and 47.52.025.

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

Sec. 1. RCW 70.94.531 and 2006 c 329 s 5 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 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. 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; 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 ridesharing 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 work week 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).

Sec. 2. RCW 46.61.165 and 2011 c 379 s 1 are each amended to read as follows:

(1) The state department of transportation and the local authorities are authorized to reserve all or any portion of any highway under their respective jurisdictions, including any designated lane or ramp, for the exclusive or preferential use of one or more of the following: (a) Public transportation vehicles; (b) motorcycles; (c) private motor vehicles carrying no fewer than a specified number of passengers; or ~~((e))~~ (d) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are authorized pursuant to subsection (1) of this section may not be authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) The state department of transportation and the local authorities authorized to reserve all or any portion of any highway under their respective jurisdictions, for exclusive or preferential use, may prohibit the use of a high occupancy vehicle lane by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle lane fails to meet department of transportation standards and

falls below forty-five miles per hour at least ninety percent of the time during the peak hours, as determined by the department of transportation or the local authority, whichever operates the facility.

(4) Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days. Violation of a restriction of highway usage prescribed by the appropriate authority under this section is a traffic infraction.

(5) Local authorities are encouraged to establish a process for private transportation providers, as described under subsections (1) and (3) of this section, to apply for the use of public transportation facilities reserved for the exclusive or preferential use of public transportation vehicles. The application and review processes should be uniform and should provide for an expeditious response by the local authority. Whenever practicable, local authorities should enter into agreements with such private transportation providers to allow for the reasonable use of these facilities.

(6) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department of transportation, and is offered by an employer for the benefit of its employees.

Sec. 3. RCW 47.52.025 and 2011 c 379 s 3 are each amended to read as follows:

(1) Highway authorities of the state, counties, and incorporated cities and towns, in addition to the specific powers granted in this chapter, shall also have, and may exercise, relative to limited access facilities, any and all additional authority, now or hereafter vested in them relative to highways or streets within their respective jurisdictions, and may regulate, restrict, or prohibit the use of such limited access facilities by various classes of vehicles or traffic. Such highway authorities may reserve any limited access facility or portions thereof, including designated lanes or ramps for the exclusive or preferential use of (a) public transportation vehicles, (b) privately owned buses, (c) motorcycles, (d) private motor vehicles carrying not less than a specified number of passengers, or ~~((d))~~ (e) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway facility or will aid in the conservation of energy resources. Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all time or at specified times of day or on specified days.

(2) Any transit-only lanes that allow other vehicles to access abutting businesses that are reserved pursuant to subsection (1) of this section may not be

authorized for the use of private transportation provider vehicles as described under subsection (1) of this section.

(3) Highway authorities of the state, counties, or incorporated cities and towns may prohibit the use of limited access facilities by the following private transportation provider vehicles: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, and marked or unmarked limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles, when the average transit speed in the high occupancy vehicle travel lane fails to meet department standards and falls below forty-five miles per hour at least ninety percent of the time during the peak hours for two consecutive months.

(4)(a) Local authorities are encouraged to establish a process for private transportation providers, described under subsections (1) and (3) of this section, to apply for the use of limited access facilities that are reserved for the exclusive or preferential use of public transportation vehicles.

(b) The process must provide a list of facilities that the local authority determines to be unavailable for use by the private transportation provider and must provide the criteria used to reach that determination.

(c) The application and review processes must be uniform and should provide for an expeditious response by the authority.

(5) For the purposes of this section, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is similarly marked or identified to display the business name or logo on the driver and passenger sides of the vehicle, meets the annual certification requirements of the department, and is offered by an employer for the benefit of its employees.

Passed by the Senate February 25, 2013.

Passed by the House April 11, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 27

[Substitute Senate Bill 5165]

SUPERIOR COURT JUDGES—AUTHORITY

AN ACT Relating to increasing the authority of superior court commissioners to hear and determine certain matters; and amending RCW 71.05.137, 71.34.315, and 2.24.010.

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

Sec. 1. RCW 71.05.137 and 1989 c 174 s 2 are each amended to read as follows:

The judges of the superior court of the county by majority vote may authorize mental health commissioners, appointed pursuant to RCW 71.05.135, to perform any or all of the following duties:

(1) Receive all applications, petitions, and proceedings filed in the superior court for the purpose of disposing of them pursuant to this chapter or RCW 10.77.094;

(2) Investigate the facts upon which to base warrants, subpoenas, orders to directions in actions, or proceedings filed pursuant to this chapter or RCW 10.77.094;

(3) For the purpose of this chapter, exercise all powers and perform all the duties of a court commissioner appointed pursuant to RCW 2.24.010;

(4) Hold hearings in proceedings under this chapter or RCW 10.77.094 and make written reports of all proceedings under this chapter or RCW 10.77.094 which shall become a part of the record of superior court;

(5) Provide such supervision in connection with the exercise of its jurisdiction as may be ordered by the presiding judge; and

(6) Cause the orders and findings to be entered in the same manner as orders and findings are entered in cases in the superior court.

Sec. 2. RCW 71.34.315 and 1989 c 174 s 3 are each amended to read as follows:

The judges of the superior court of the county by majority vote may authorize mental health commissioners, appointed pursuant to RCW 71.05.135, to perform any or all of the following duties:

(1) Receive all applications, petitions, and proceedings filed in the superior court for the purpose of disposing of them pursuant to this chapter or RCW 10.77.094;

(2) Investigate the facts upon which to base warrants, subpoenas, orders to directions in actions, or proceedings filed pursuant to this chapter or RCW 10.77.094;

(3) For the purpose of this chapter, exercise all powers and perform all the duties of a court commissioner appointed pursuant to RCW 2.24.010;

(4) Hold hearings in proceedings under this chapter or RCW 10.77.094 and make written reports of all proceedings under this chapter or RCW 10.77.094 which shall become a part of the record of superior court;

(5) Provide such supervision in connection with the exercise of its jurisdiction as may be ordered by the presiding judge; and

(6) Cause the orders and findings to be entered in the same manner as orders and findings are entered in cases in the superior court.

Sec. 3. RCW 2.24.010 and 2009 c 140 s 1 are each amended to read as follows:

(1) There may be appointed in each county or judicial district, by the judges of the superior court having jurisdiction therein, one or more court commissioners for said county or judicial district. Each such commissioner shall be a citizen of the United States and shall hold the office during the pleasure of the judges making the appointment.

(2)(a) There may be appointed in counties with a population of more than four hundred thousand, by the presiding judge of the superior court having jurisdiction therein, one or more attorneys to act as criminal commissioners to assist the superior court in disposing of adult criminal cases. Such criminal commissioners shall have power, authority, and jurisdiction, concurrent with the superior court and the judges thereof, in adult criminal cases, to preside over arraignments, preliminary appearances, initial extradition hearings, and noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040; accept pleas if authorized by local court rules; appoint counsel; make determinations of

probable cause; set, amend, and review conditions of pretrial release; set bail; set trial and hearing dates; authorize continuances; ~~((and))~~ accept waivers of the right to speedy trial; and authorize and issue search warrants and orders to intercept, monitor, or record wired or wireless telecommunications or for the installation of electronic taps or other devices to include, but not be limited to, vehicle global positioning system or other mobile tracking devices with all the powers conferred upon the judge of the superior court in such matters.

(b) The county legislative authority must approve the creation of criminal commissioner positions.

Passed by the Senate March 8, 2013.

Passed by the House April 11, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 28

[Senate Bill 5186]

PUBLIC CONTRACTS—BONDS

AN ACT Relating to contractor's bond; amending RCW 39.08.030 and 39.08.030; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 39.08.030 and 2009 c 473 s 1 are each amended to read as follows:

(1) The bond mentioned in RCW 39.08.010 shall be in an amount equal to the full contract price agreed to be paid for such work or improvement, except under subsections (2) and (3) of this section, and shall be to the state of Washington, except as otherwise provided in RCW 39.08.100, and except in cases of cities ~~((and))~~, towns, and water-sewer districts, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond shall run: **PROVIDED**, The same shall not be for a less amount than twenty-five percent of the contract price of any such improvement for cities and towns, and not less than the full contract price of any such improvement for water-sewer districts, and may designate that the same shall be payable to such city, town, or water-sewer district and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 shall have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements: **PROVIDED**, That such persons shall not have any right of action on such bond for any sum whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or material supplier, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, shall present to and file with such board, council, commission, trustees or body acting for the state, county or

municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or material supplier, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of dollars (here insert the amount) against the bond taken from (here insert the name of the principal and surety or sureties upon such bond) for the work of (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed)

Such notice shall be signed by the person or corporation making the claim or giving the notice, and said notice, after being presented and filed, shall be a public record open to inspection by any person, and in any suit or action brought against such surety or sureties by any such person or corporation to recover for any of the items hereinbefore specified, the claimant shall be entitled to recover in addition to all other costs, ((attorney's)) attorneys' fees in such sum as the court shall adjudge reasonable: PROVIDED, HOWEVER, That no ((attorney's)) attorneys' fees shall be allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice hereinbefore mentioned: PROVIDED FURTHER, That any city may avail itself of the provisions of RCW 39.08.010 through 39.08.030, notwithstanding any charter provisions in conflict herewith: AND PROVIDED FURTHER, That any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict herewith.

(2) Under the job order contracting procedure described in RCW 39.10.420, bonds will be in an amount not less than the dollar value of all open work orders.

(3)(a) On highway construction contracts administered by the department of transportation with an estimated contract price of two hundred fifty million dollars or more, the department may authorize bonds in an amount less than the full contract price of the project. If a bond less than the full contract price is authorized by the department, the bond must be in the form of a performance bond and a separate payment bond. The department shall fix the amount of the performance bond on a contract-by-contract basis to adequately protect one hundred percent of the state's exposure to loss. The amount of the performance bond must not be less than two hundred fifty million dollars. The payment bond must be in an amount fixed by the department but must not be less than the amount of the performance bond. The secretary of transportation must approve each performance bond and payment bond authorized to be less than the full contract price of a project. Before the secretary may approve any bond authorized to be less than the full contract price of a project, the office of financial management shall review and approve the analysis supporting the amount of the bond set by the department to ensure that one hundred percent of

the state's exposure to loss is adequately protected. All the requirements of this chapter apply respectively to the individual performance and payment bonds. The performance bond is solely for the protection of the department. The payment bond is solely for the protection of laborers, mechanics, subcontractors, and suppliers mentioned in RCW 39.08.010.

(b) The department shall develop risk assessment guidelines and gain approval of these guidelines from the office of financial management before implementing (a) of this subsection. The guidelines must include a clear process for how the department measures the state's exposure to loss and how the performance bond amount, determined under (a) of this subsection, adequately protects one hundred percent of the state's exposure to loss.

~~((c) The department shall report to the house of representatives and senate transportation committees by December 1, 2012: Each project where the department authorized bonds that were less than the full contract price; the difference between the project amount and the bond requirements; the number of bidders on the project; and other information that documents the effects of the reduced bond amounts on the project.))~~

Sec. 2. RCW 39.08.030 and 2007 c 218 s 89 are each amended to read as follows:

(1) The bond mentioned in RCW 39.08.010 shall be in an amount equal to the full contract price agreed to be paid for such work or improvement, except under subsection (2) of this section, and shall be to the state of Washington, except as otherwise provided in RCW 39.08.100, and except in cases of cities ~~((and))~~, towns, and water-sewer districts, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond shall run: **PROVIDED**, The same shall not be for a less amount than twenty-five percent of the contract price of any such improvement for cities and towns, and not less than the full contract price of any such improvement for water-sewer districts, and may designate that the same shall be payable to such city, town, or water-sewer district and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 shall have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements: **PROVIDED**, That such persons shall not have any right of action on such bond for any sum whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or material supplier, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, shall present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or material supplier, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of dollars (here insert the amount) against the bond taken from (here insert the name of the principal and surety or sureties upon such bond) for the work of (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed)

Such notice shall be signed by the person or corporation making the claim or giving the notice, and said notice, after being presented and filed, shall be a public record open to inspection by any person, and in any suit or action brought against such surety or sureties by any such person or corporation to recover for any of the items hereinbefore specified, the claimant shall be entitled to recover in addition to all other costs, ((attorney's)) attorneys' fees in such sum as the court shall adjudge reasonable: PROVIDED, HOWEVER, That no ((attorney's)) attorneys' fees shall be allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice hereinbefore mentioned: PROVIDED FURTHER, That any city may avail itself of the provisions of RCW 39.08.010 through 39.08.030, notwithstanding any charter provisions in conflict herewith: AND PROVIDED FURTHER, That any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict herewith.

(2) Under the job order contracting procedure described in RCW ((39.10.130)) 39.10.420, bonds will be in an amount not less than the dollar value of all open work orders.

NEW SECTION, Sec. 3. Section 1 of this act expires June 30, 2016.

NEW SECTION, Sec. 4. Section 2 of this act takes effect June 30, 2016.

Passed by the Senate February 26, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 29

[Senate Bill 5207]

CONSUMER LOAN ACT

AN ACT Relating to making technical corrections and updating licensing and enforcement provisions of the consumer loan act; and amending RCW 31.04.015, 31.04.025, 31.04.027, 31.04.035, 31.04.093, 31.04.102, 31.04.105, 31.04.155, 31.04.221, 31.04.290, 31.04.293, and 31.04.297.

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

Sec. 1. RCW 31.04.015 and 2010 c 35 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

(1) "Add-on method" means the method of precomputing interest payable on a loan whereby the interest to be earned is added to the principal balance and the total plus any charges allowed under this chapter is stated as the loan amount, without further provision for the payment of interest except for failure to pay according to loan terms. The director may adopt by rule a more detailed explanation of the meaning and use of this method.

(2) "Applicant" means a person applying for a license under this chapter.

(3) "Borrower" means any person who consults with or retains a licensee or person subject to this chapter in an effort to obtain, or who seeks information about obtaining a loan, regardless of whether that person actually obtains such a loan. "Borrower" includes a person who consults with or retains a licensee or person subject to this chapter in an effort to obtain, or who seeks information about obtaining a residential mortgage loan modification, regardless of whether that person actually obtains a residential mortgage loan modification.

(4) "Depository institution" has the same meaning as in section 3 of the federal deposit insurance act on July 26, 2009, and includes credit unions.

(5) "Director" means the director of financial institutions.

(6) "Federal banking agencies" means the board of governors of the federal reserve system, comptroller of the currency, director of the office of thrift supervision, national credit union administration, and federal deposit insurance corporation.

(7) "Individual servicing a mortgage loan" means a person on behalf of a lender or servicer licensed by this state, who collects or receives payments including payments of principal, interest, escrow amounts, and other amounts due, on existing obligations due and owing to the licensed lender or servicer for a residential mortgage loan when the borrower is in default, or in reasonably foreseeable likelihood of default, working with the borrower and the licensed lender or servicer, collects data and makes decisions necessary to modify either temporarily or permanently certain terms of those obligations, or otherwise finalizing collection through the foreclosure process.

(8) "Insurance" means life insurance, disability insurance, property insurance, involuntary unemployment insurance, and such other insurance as may be authorized by the insurance commissioner.

(9) "License" means a single license issued under the authority of this chapter with respect to a single place of business.

(10) "Licensee" means a person to whom one or more licenses have been issued.

(11) "Loan" means a sum of money lent at interest or for a fee or other charge and includes both open-end and closed-end loan transactions.

(12) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under this chapter ((19.146 RCW)).

(13) "Making a loan" means advancing, offering to advance, or making a commitment to advance funds to a borrower for a loan.

(14) "Mortgage broker" means the same as defined in RCW 19.146.010, except that for purposes of this chapter, a licensee or person subject to this chapter cannot receive compensation as both a consumer loan licensee making the loan and as a consumer loan licensee acting as the mortgage broker in the same loan transaction.

(15)(a) "Mortgage loan originator" means an individual who for compensation or gain (i) takes a residential mortgage loan application, or (ii) offers or negotiates terms of a residential mortgage loan. "Mortgage loan originator" does not include any individual who performs purely administrative or clerical tasks; and does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code. For the purposes of this definition, administrative or clerical tasks means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing of a residential mortgage loan.

(b) "Mortgage loan originator" also includes an individual who for compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.

(c) "Mortgage loan originator" does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. For the purposes of chapter 120, Laws of 2009, the term "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

(i) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(iii) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction;

(iv) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) Offering to engage in any activity, or act in any capacity, described in (c)(i) through (iv) of this subsection.

~~(d) ((This subsection does not apply to an individual servicing a mortgage loan before July 1, 2011.~~

~~(e)) This subsection does not apply to employees of a housing counseling agency approved by the United States department of housing and urban development unless the employees of a housing counseling agency are required under federal law to be individually licensed as mortgage loan originators.~~

(16) "Nationwide ((mortgage)) multistate licensing system ((and registry))" means a ((mortgage)) licensing system developed and maintained by the conference of state bank supervisors and the American association of residential

mortgage regulators for the licensing and registration of mortgage loan originators and other licensing types.

(17) "Officer" means an official appointed by the company for the purpose of making business decisions or corporate decisions.

(18) "Person" includes individuals, partnerships, associations, limited liability companies, limited liability partnerships, trusts, corporations, and all other legal entities.

(19) "Principal" means any person who controls, directly or indirectly through one or more intermediaries, alone or in concert with others, a ten percent or greater interest in a partnership; company; association or corporation; or a limited liability company, and the owner of a sole proprietorship.

(20) "Registered mortgage loan originator" means any individual who meets the definition of mortgage loan originator and is an employee of a depository institution; a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or an institution regulated by the farm credit administration and is registered with, and maintains a unique identifier through, the nationwide (~~(mortgage)~~) multistate licensing system (~~(and registry)~~).

(21) "Residential mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in section 103(v) of the truth in lending act, or residential real estate upon which is constructed or intended to be constructed a dwelling.

(22) "Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include but are not limited to forbearances; repayment plans; changes in interest rates, loan terms, or loan types; capitalizations of arrearages; or principal reductions.

(23) "Residential mortgage loan modification services" includes negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform a residential mortgage loan modification for compensation or gain. "Residential mortgage loan modification services" also includes the collection of data for submission to an entity performing mortgage loan modification services. (~~"Residential mortgage loan modification services" do not include actions by individuals servicing a mortgage loan before July 1, 2011.~~)

(24) "S.A.F.E. act" means the secure and fair enforcement for mortgage licensing act of 2008, Title V of the housing and economic recovery act of 2008 ("HERA"), P.L. 110-289, effective July 30, 2008.

(25) "Senior officer" means an officer of a licensee at the vice president level or above.

(26) "Service or servicing a loan" means on behalf of the lender or investor of a residential mortgage loan: (a) Collecting or receiving payments on existing obligations due and owing to the lender or investor, including payments of principal, interest, escrow amounts, and other amounts due; (b) collecting fees due to the servicer; (c) working with the borrower and the licensed lender or servicer to collect data and make decisions necessary to modify certain terms of those obligations either temporarily or permanently; (d) otherwise finalizing

collection through the foreclosure process; or (e) servicing a reverse mortgage loan.

(27) "Service or servicing a reverse mortgage loan" means, pursuant to an agreement with the owner of a reverse mortgage loan: Calculating, collecting, or receiving payments of interest or other amounts due; administering advances to the borrower; and providing account statements to the borrower or lender.

(28) "Simple interest method" means the method of computing interest payable on a loan by applying the annual percentage interest rate or its periodic equivalent to the unpaid balances of the principal of the loan outstanding for the time outstanding ~~((with))~~.

(a) On a nonresidential loan each payment is applied first to any unpaid penalties, fees, or charges, then to accumulated interest, and the remainder of the payment applied to the unpaid balance of the principal until paid in full. In using such method, interest shall not be payable in advance nor compounded~~((, except that on a loan secured by real estate, a licensee may collect at the time of the loan closing up to but not exceeding forty five days of prepaid interest))~~. The prohibition on compounding interest does not apply to reverse mortgage loans made in accordance with the Washington state reverse mortgage act. The director may adopt by rule a more detailed explanation of the meaning and use of this method.

(b) On a residential mortgage loan payments are applied as determined in the security instrument.

(29) "Third-party residential mortgage loan modification services" means residential mortgage loan modification services offered or performed by any person other than the owner or servicer of the loan.

(30) "Third-party service provider" means any person other than the licensee or a mortgage broker who provides goods or services to the licensee or borrower in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, real estate brokers or salespersons, title insurance companies and agents, appraisers, structural and pest inspectors, or escrow companies.

(31) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide ~~((mortgage))~~ multistate licensing system ~~((and registry))~~.

Sec. 2. RCW 31.04.025 and 2012 c 17 s 1 are each amended to read as follows:

(1) Each loan made to a resident of this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter~~((, unless such loan is made under the authority of chapter 63.14 RCW))~~.

(2) This chapter does not apply to the following:

(a) Any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions;

(b) Entities making loans under chapter 19.60 RCW (pawnbroking);

(c) Entities conducting transactions under chapter 63.14 RCW (retail installment sales of goods and services), unless ~~((the goods being sold in a retail installment sale consist of open loop prepaid access (prepaid access as defined in 31 C.F.R. Part 1010.100(ww) and not closed loop prepaid access as defined in 31 C.F.R. Part 1010.100(kkk)))~~ credit is extended to purchase merchandise

certificates, coupons, open or closed loop stored value, or other similar items issued and redeemable by a retail seller other than the retail seller extending the credit;

(d) Entities making loans under chapter 31.45 RCW (check cashers and sellers);

(e) Any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary residence;

(f) Any person making loans made to government or government agencies or instrumentalities or making loans to organizations as defined in the federal truth in lending act;

(g) Entities making loans under chapter 43.185 RCW (housing trust fund);

(h) Entities making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;

(i) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents; (~~and~~)

(j) Entities making loans which are not residential mortgage loans under a credit card plan; and

(k) Individuals employed by a licensed residential loan servicing company, unless so required by federal law or regulation.

(3) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers. The director may adopt rules interpreting this section.

(4) The burden of proving the application for an exemption or exception from a definition, or a preemption of a provision of this chapter, is upon the person claiming the exemption, exception, or preemption.

Sec. 3. RCW 31.04.027 and 2012 c 17 s 2 are each amended to read as follows:

It is a violation of this chapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the consumer loan company may earn a fee or commission through the consumer loan company's best efforts to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) Fail to make disclosures to loan applicants as required by RCW 31.04.102 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department by a licensee or in connection with any investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(10) Accept from any borrower at or near the time a loan is made and in advance of any default an execution of, or induce any borrower to execute, any instrument of conveyance, not including a mortgage or deed of trust, to the lender of any ownership interest in the borrower's primary residence that is the security for the borrower's loan;

(11) Obtain at the time of closing a release of future damages for usury or other damages or penalties provided by law or a waiver of the provisions of this chapter;

(12) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest (~~((or otherwise fail to comply with any requirement of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226, the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and regulation X, 24 C.F.R. Sec. 3500, or the equal credit opportunity act, 15 U.S.C. Sec. 1691 and regulation B, Sec. 202.9, 202.11, and 202.12, or any other applicable state or federal statutes or regulations; or))~~);

(13) Violate any applicable state or federal law relating to the activities governed by this chapter; or

(14) Make loans from any unlicensed location.

Sec. 4. RCW 31.04.035 and 2010 c 35 s 2 are each amended to read as follows:

(1) No person may (~~engage in the business of making~~) **make** secured or unsecured loans of money(~~(;)~~) **or things in action, or extend credit, (~~or things in action,~~)** (~~or (~~servicing~~) service or modify the terms or conditions of residential mortgage loans, without first obtaining and maintaining a license in accordance with this chapter, except those exempt under RCW 31.04.025.~~

(2) If a transaction violates subsection (1) of this section, any:

(a) Nonthird-party fees charged in connection with the origination of the residential mortgage loan must be refunded to the borrower, excluding interest charges; and

(b) Fees or interest charged in the making of a nonresidential loan must be refunded to the borrower.

Sec. 5. RCW 31.04.093 and 2012 c 17 s 4 are each amended to read as follows:

(1) The director shall enforce all laws and rules relating to the licensing and regulation of licensees and persons subject to this chapter.

(2) The director may deny applications for licenses for:

(a) Failure of the applicant to demonstrate within its application for a license that it meets the requirements for licensing in RCW 31.04.045 and 31.04.055;

(b) Violation of an order issued by the director under this chapter or another chapter administered by the director, including but not limited to cease and desist orders and temporary cease and desist orders;

(c) Revocation or suspension of a license to conduct lending or residential mortgage loan servicing, or to provide settlement services associated with lending or residential mortgage loan servicing, by this state, another state, or by the federal government within five years of the date of submittal of a complete application for a license; or

(d) Filing an incomplete application when that incomplete application has been filed with the department for sixty or more days, provided that the director has given notice to the licensee that the application is incomplete, informed the applicant why the application is incomplete, and allowed at least twenty days for the applicant to complete the application.

(3) The director may suspend or revoke a license issued under this chapter if the director finds that:

(a) The licensee has failed to pay any fee due the state of Washington, has failed to maintain in effect the bond or permitted substitute required under this chapter, or has failed to comply with any specific order or demand of the director lawfully made and directed to the licensee in accordance with this chapter;

(b) The licensee, either knowingly or without the exercise of due care, has violated any provision of this chapter or any rule adopted under this chapter; or

(c) A fact or condition exists that, if it had existed at the time of the original application for the license, clearly would have allowed the director to deny the application for the original license. The director may revoke or suspend only the particular license with respect to which grounds for revocation or suspension may occur or exist unless the director finds that the grounds for revocation or suspension are of general application to all offices or to more than one office operated by the licensee, in which case, the director may revoke or suspend all of the licenses issued to the licensee.

(4) The director may impose fines of up to one hundred dollars per day, per violation, upon the licensee, its employee or loan originator, or other person subject to this chapter for:

(a) Any violation of this chapter; or

(b) Failure to comply with any order or subpoena issued by the director under this chapter.

(5) The director may issue an order directing the licensee, its employee or loan originator, or other person subject to this chapter to:

(a) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter;

(b) Take such affirmative action as is necessary to comply with this chapter; or

(c) Make a refund or restitution to a borrower or other person who is damaged as a result of a violation of this chapter.

(6) The director may issue an order removing from office or prohibiting from participation in the affairs of any licensee, or both, any officer, principal, employee or loan originator, or any person subject to this chapter for:

(a) False statements or omission of material information from an application for a license that, if known, would have allowed the director to deny the original application for a license;

(b) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony;

(c) Suspension or revocation of a license to engage in lending or residential mortgage loan servicing, or perform a settlement service related to lending or residential mortgage loan servicing, in this state or another state;

(d) Failure to comply with any order or subpoena issued under this chapter;

(e) A violation of RCW 31.04.027, 31.04.102, 31.04.155, or 31.04.221; or

(f) Failure to obtain a license for activity that requires a license.

(7) Except to the extent prohibited by another statute, the director may engage in informal settlement of complaints or enforcement actions including, but not limited to, payment to the department for purposes of financial literacy and education programs authorized under RCW 43.320.150. If any person subject to this chapter makes a payment to the department under this section, the person may not advertise such payment.

(8) Whenever the director determines that the public is likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately issue a temporary cease and desist order. The order may direct the licensee to discontinue any violation of this chapter, to take such affirmative action as is necessary to comply with this chapter, and may include a summary suspension of the licensee's license and may order the licensee to immediately cease the conduct of business under this chapter. The order shall become effective at the time specified in the order. Every temporary cease and desist order shall include a provision that a hearing will be held upon request to determine whether the order will become permanent. Such hearing shall be held within fourteen days of receipt of a request for a hearing unless otherwise specified in chapter 34.05 RCW.

(9) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability, if any, for acts committed before the surrender, including any administrative action initiated by the director to suspend or revoke a license, impose fines, compel the payment of restitution to borrowers or other persons, or exercise any other authority under this chapter.

(10) The revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and a borrower.

(11) Every license issued under this chapter remains in force and effect until it has been surrendered, revoked, or suspended in accordance with this chapter. However, the director may on his or her own initiative reinstate suspended licenses or issue new licenses to a licensee whose license or licenses have been revoked if the director finds that the licensee meets all the requirements of this chapter.

(12) A license issued under this chapter expires upon the licensee's failure to comply with the annual assessment requirements in RCW 31.04.085, and the

rules. The department must provide notice of the expiration to the address of record provided by the licensee. On the 15th day after the department provides notice, if the assessment remains unpaid, the license expires. The licensee must receive notice prior to expiration and have the opportunity to stop the expiration as set forth in rule.

Sec. 6. RCW 31.04.102 and 2009 c 120 s 6 are each amended to read as follows:

(1) For all loans made by a licensee that are not secured by a lien on real property, the licensee must make disclosures in compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part 226, and all other applicable federal laws and regulations.

(2) For all loans made by a licensee that are secured by a lien on real property, the licensee shall provide to each borrower within three business days following receipt of a loan application a written disclosure containing an itemized estimation and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a loan from the licensee. A good faith estimate of a fee or cost shall be provided if the exact amount of the fee or cost is not available when the disclosure is provided. Disclosure in a form which complies with the requirements of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part 226, the real estate settlement procedures act and regulation X, 24 C.F.R. Sec. 3500, and all other applicable federal laws and regulations, as now or hereafter amended, shall be deemed to constitute compliance with this disclosure requirement. Each licensee shall comply with all other applicable federal and state laws and regulations.

(3) In addition, for all loans made by the licensee that are secured by a lien on real property, the licensee must provide to the borrower an estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty within three days of receipt of a loan application. The annual percentage rate must be calculated in compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part 226. If a licensee provides the borrower with a disclosure in compliance with the requirements of the truth in lending act within three business days of receipt of a loan application, then the licensee has complied with this subsection. If the director determines that the federal government has required a disclosure that substantially meets the objectives of this subsection, then the director may make a determination by rule that compliance with this federal disclosure requirement constitutes compliance with this subsection.

(4) In addition for all consumer loans made by the licensee that are secured by a lien on real property, the licensee must (~~provide the borrower with the one-page disclosure summary required in~~) comply with RCW 19.144.020.

Sec. 7. RCW 31.04.105 and 2009 c 120 s 7 are each amended to read as follows:

Every licensee may:

(1) Lend money at a rate that does not exceed twenty-five percent per annum as determined by the simple interest method of calculating interest owed;

(2) In connection with the making of a loan, charge the borrower a nonrefundable, prepaid, loan origination fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount

of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan;

(3) Agree with the borrower for the payment of fees to third parties other than the licensee who provide goods or services to the licensee in connection with the preparation of the borrower's loan, including, but not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, and escrow companies, when such fees are actually paid by the licensee to a third party for such services or purposes and may include such fees in the amount of the loan. However, no charge may be collected unless a loan is made, except for reasonable fees properly incurred in connection with the appraisal of property by a qualified, independent, professional, third-party appraiser selected by the borrower and approved by the lender or in the absence of borrower selection, selected by the lender;

(4) In connection with the making of a loan secured by real estate, when the borrower actually obtains a loan, agree with the borrower to pay a fee to a mortgage broker that is not owned by the licensee or under common ownership with the licensee and that performed services in connection with the origination of the loan. A licensee may not receive compensation as a mortgage broker in connection with any loan made by the licensee;

(5) Collect at the time of the loan closing up to but not exceeding forty-five days of prepaid interest;

(6) Charge and collect a penalty of not more than ten percent of any installment payment delinquent ten days or more;

~~((6))~~ (7) Collect from the debtor reasonable attorneys' fees, actual expenses, and costs incurred in connection with the collection of a delinquent debt, a repossession, or a foreclosure when a debt is referred for collection to an attorney who is not a salaried employee of the licensee;

~~((7))~~ (8) Make open-end loans as provided in this chapter;

~~((8))~~ (9) Charge and collect a fee for dishonored checks in an amount approved by the director; and

~~((9))~~ (10) In accordance with Title 48 RCW, sell insurance covering real and personal property, covering the life or disability or both of the borrower, and covering the involuntary unemployment of the borrower.

Sec. 8. RCW 31.04.155 and 2001 c 81 s 12 are each amended to read as follows:

The licensee shall keep and use in the business such books, accounts, records, papers, documents, files, and other information as will enable the director to determine whether the licensee is complying with this chapter and with the rules adopted by the director under this chapter. The director shall have free access to such books, accounts, records, papers, documents, files, and other information wherever located. Every licensee shall preserve the books, accounts, records, papers, documents, files, and other information relevant to a loan for at least ~~((twenty five months))~~ three years after making the final entry on any loan. No licensee or person subject to examination or investigation under this chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, accounts, records, papers, documents, files, or other information.

Each licensee shall, on or before the first day of March of each year, file a report with the director giving such relevant information as the director may reasonably require concerning the business and operations of each licensed place

of business conducted during the preceding calendar year. The report must be made under oath and must be in the form prescribed by the director, who shall make and publish annually an analysis and recapitulation of the reports. Every licensee that fails to file a report that is required to be filed by this chapter within the time required under this chapter is subject to a penalty of fifty dollars per day for each day's delay. The attorney general may bring a civil action in the name of the state for recovery of any such penalty.

Sec. 9. RCW 31.04.221 and 2009 c 120 s 10 are each amended to read as follows:

An individual defined as a mortgage loan originator shall not engage in the business of a mortgage loan originator without first obtaining and maintaining annually a license under this chapter (~~(120, Laws of 2009)~~). Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide (~~(mortgage)~~) multistate licensing system (~~(and registry)~~).

Sec. 10. RCW 31.04.290 and 2010 c 35 s 9 are each amended to read as follows:

(1) A residential mortgage loan servicer must comply with the following requirements:

(a) The requirements of chapter 19.148 RCW;

(b) Any fee that is assessed by a servicer must be assessed within forty-five days of the date on which the fee was incurred and must be explained clearly and conspicuously in a statement mailed to the borrower at the borrower's last known address no more than thirty days after assessing the fee;

(c) All amounts received by a servicer on a residential mortgage loan at the address where the borrower has been instructed to make payments must be accepted and credited, or treated as credited, within one business day of the date received, provided that the borrower has provided sufficient information to credit the account. If a servicer uses the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date must be credited no later than the due date. If any payment is received and not credited, or treated as credited, the borrower must be notified of the disposition of the payment within ten business days by mail at the borrower's last known address. The notification must identify the reason the payment was not credited or treated as credited to the account, as well as any actions the borrower must take to make the residential mortgage loan current;

(d) Any servicer that exercises the authority to collect escrow amounts on a residential mortgage loan held for the borrower for payment of insurance, taxes, and other charges with respect to the property shall collect and make all such payments from the escrow account and ensure that no late penalties are assessed or other negative consequences result for the borrower;

(e) The servicer shall make reasonable attempts to comply with a borrower's request for information about the residential mortgage loan account and to respond to any dispute initiated by the borrower about the loan account. The servicer:

(i) Must maintain written or electronic records of each written request for information regarding a dispute or error involving the borrower's account until the residential mortgage loan is paid in full, sold, or otherwise satisfied; and

(ii) Must provide a written statement to the borrower within fifteen business days of receipt of a written request from the borrower. The borrower's request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and sufficient detail regarding the information sought by the borrower to permit the servicer to comply. At a minimum, the servicer's response to the borrower's request must include the following information:

(A) Whether the account is current or, if the account is not current, an explanation of the default and the date the account went into default;

(B) The current balance due on the residential mortgage loan, including the principal due, the amount of funds, if any, held in a suspense account, the amount of the escrow balance known to the servicer, if any, and whether there are any escrow deficiencies or shortages known to the servicer;

(C) The identity, address, and other relevant information about the current holder, owner, or assignee of the residential mortgage loan; and

(D) The telephone number and mailing address of a servicer representative with the information and authority to answer questions and resolve disputes; and

~~((iii) May charge a fee for preparing and furnishing the statement in (e)(ii) of this subsection not exceeding thirty dollars per statement; and))~~

(f) Promptly correct any errors and refund any fees assessed to the borrower resulting from the servicer's error.

(2) In addition to the statement in subsection (1)(e)(ii) of this section, a borrower may request more detailed information from a servicer, and the servicer must provide the information within fifteen business days of receipt of a written request from the borrower. The request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and provide sufficient detail to the servicer regarding information sought by the borrower. If requested by the borrower this statement must include:

(a) A copy of the original note, or if unavailable, an affidavit of lost note; and

(b) A statement that identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the residential mortgage loan including escrow account activity and suspense account activity, if any. The period of the account history shall cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the residential mortgage loan for the entire two-year time period the servicer shall provide the information going back to the date on which the servicer began servicing the home loan, and identify the previous servicer, if known. If the servicer claims that any delinquent or outstanding sums are owed on the home loan prior to the two-year period or the period during which the servicer has serviced the residential mortgage loan, the servicer shall provide an account history beginning with the month that the servicer claims any outstanding sums are owed on the residential mortgage loan up to the date of the request for the information. The borrower may request annually one statement free of charge.

Sec. 11. RCW 31.04.293 and 2010 c 35 s 10 are each amended to read as follows:

(1) In addition to any other requirements under federal or state law, an advance fee may not be collected for residential mortgage loan modification services ~~((unless a))~~.

~~(2) A~~ written disclosure summary of all material terms ~~((, in the format adopted by the department under subsection (2) of this section, has been))~~ of the services to be provided must be provided to the borrower.

~~((2))~~ (3) The department shall adopt by rule a model written ~~((fee agreement))~~ disclosure summary, and any other rules necessary to implement this section. This may include, but is not limited to, usual and customary fees for residential mortgage loan modification services.

Sec. 12. RCW 31.04.297 and 2010 c 35 s 11 are each amended to read as follows:

(1) In addition to complying with federal law and all requirements for loan originators under this chapter, third-party residential mortgage loan modification services providers must:

(a) Provide a written ~~((fee))~~ disclosure summary as described in RCW 31.04.293 ~~((before accepting any advance fee))~~;

(b) Not receive ~~((an))~~ advance ~~((fee greater than seven hundred fifty dollars))~~ fees;

(c) Not charge total fees in excess of usual and customary charges, or total fees that are not reasonable in light of the service provided; and

(d) Immediately inform the borrower in writing if the owner of the loan requires additional information from the borrower, or if it becomes apparent that a residential mortgage loan modification is not possible.

(2) As a condition for providing a loan modification or loan modification services, third-party residential mortgage loan modification services providers and individuals servicing a residential mortgage loan must not require or encourage a borrower to:

(a) Sign a waiver of his or her legal defenses, counterclaims, and other legal rights against the servicer for future acts;

(b) Sign a waiver of his or her right to contest a future foreclosure;

(c) Waive his or her right to receive notice before the owner or servicer of the loan initiates foreclosure proceedings;

(d) Agree to pay charges not enumerated in any agreement between the borrower and the lender, servicer, or owner of the loan; or

(e) Cease communication with the lender, investor, or loan servicer.

(3) Failure to comply with subsection (1) of this section is a violation of RCW 19.144.080.

Passed by the Senate March 5, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 30

[Substitute Senate Bill 5210]

DEPARTMENT OF FINANCIAL INSTITUTIONS—
MORTGAGE BROKERS AND LOAN MODIFICATIONS

AN ACT Relating to the department of financial institutions' regulation of mortgage brokers and clarifying the department's existing regulatory authority regarding residential mortgage loan modification services; and amending RCW 19.146.010, 19.146.020, 19.146.0201, 19.146.060, 19.146.220, and 19.146.240.

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

Sec. 1. RCW 19.146.010 and 2010 c 35 s 13 are each amended to read as follows:

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

(1) "Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with another person.

(2) "Application" means the same as in Regulation X, Real Estate Settlement Procedures, 24 C.F.R. Sec. 3500.

(3) "Borrower" means any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan, or a residential mortgage loan modification, for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan.

(4) "Computer loan information systems" or "CLI system" means a real estate mortgage financing information system that facilitates the provision of information to consumers by a mortgage broker, loan originator, lender, real estate agent, or other person regarding interest rates and other loan terms available from different lenders.

(5) "Department" means the department of financial institutions.

(6) "Designated broker" means a natural person designated as the person responsible for activities of the licensed mortgage broker in conducting the business of a mortgage broker under this chapter and who meets the experience and examination requirements set forth in RCW 19.146.210(1)(e).

(7) "Director" means the director of financial institutions.

(8) "Employee" means an individual who has an employment relationship with a mortgage broker, and the individual is treated as an employee by the mortgage broker for purposes of compliance with federal income tax laws.

(9) "Federal banking agencies" means the board of governors of the federal reserve system, comptroller of the currency, director of the office of thrift supervision, national credit union administration, and federal deposit insurance corporation.

(10) "Independent contractor" or "person who independently contracts" means any person that expressly or impliedly contracts to perform mortgage brokering services for another and that with respect to its manner or means of performing the services is not subject to the other's right of control, and that is not treated as an employee by the other for purposes of compliance with federal income tax laws.

(11)(a) "Loan originator" means a natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or

gain (i) takes a residential mortgage loan application for a mortgage broker, or (ii) offers or negotiates terms of a mortgage loan. "Loan originator" also includes a person who holds themselves out to the public as able to perform any of these activities. "Loan originator" does not mean persons performing purely administrative or clerical tasks for a mortgage broker. For the purposes of this subsection, "administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a borrower to obtain information necessary for the processing of a loan. A person who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.

(b) "Loan originator" also includes a natural person who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain performs residential mortgage loan modification services or holds himself or herself out as being able to perform residential mortgage loan modification services.

(c) "Loan originator" does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. For purposes of this chapter, the term "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

(i) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(iii) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction;

(iv) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) Offering to engage in any activity, or act in any capacity, described in (c)(i) through (iv) of this subsection.

(d) "Loan originator" does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of Title 11, United States Code.

(e) This subsection does not apply to employees of a housing counseling agency approved by the United States department of housing and urban development unless the employees of a housing counseling agency are required under federal law to be licensed individually as loan originators.

(12) "Loan processor" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under this chapter.

(13) "Lock-in agreement" means an agreement with a borrower made by a mortgage broker or loan originator, in which the mortgage broker or loan originator agrees that, for a period of time, a specific interest rate or other financing terms will be the rate or terms at which it will make a loan available to that borrower.

(14) "Mortgage broker" means any person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage loan or performs residential mortgage loan modification services or (b) holds himself or herself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan or provide residential mortgage loan modification services.

(15) "Mortgage loan originator" has the same meaning as "loan originator."

(16) "Nationwide mortgage licensing system and registry" means a mortgage licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators for the licensing and registration of mortgage loan originators.

(17) "Person" means a natural person, corporation, company, limited liability corporation, partnership, or association.

(18) "Principal" means any person who controls, directly or indirectly through one or more intermediaries, or alone or in concert with others, a ten percent or greater interest in a partnership, company, association, or corporation, and the owner of a sole proprietorship.

(19) "Residential mortgage loan" means any loan primarily for personal, family, or household use secured by a mortgage or deed of trust on residential real estate upon which is constructed or intended to be constructed a single-family dwelling or multiple-family dwelling of four or less units.

(20) "Residential mortgage loan modification" means a change in one or more of a residential mortgage loan's terms or conditions. Changes to a residential mortgage loan's terms or conditions include but are not limited to forbearances; repayment plans; changes in interest rates, loan terms, or loan types; capitalizations of arrearages; or principal reductions.

(21) "Residential mortgage loan modification services" includes negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform a residential mortgage loan modification. "Residential mortgage loan modification services" also includes the collection of data for submission to any entity performing mortgage loan modification services.

(22) "S.A.F.E. act" means the secure and fair enforcement for mortgage licensing act of 2008, or Title V of the housing and economic recovery act of 2008 ("HERA"), P.L. 110-289, effective July 30, 2008.

(23) "Third-party provider" means any person other than a mortgage broker or lender who provides goods or services to the mortgage broker in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

(24) "Third-party residential mortgage loan modification services" means residential mortgage loan modification services offered or performed by any person other than the owner or servicer of the loan.

(25) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry.

Sec. 2. RCW 19.146.020 and 2009 c 528 s 2 are each amended to read as follows:

(1) The following are exempt from all provisions of this chapter:

(a) Any person doing business under the laws of the state of Washington or the United States, and any federally insured depository institution doing business under the laws of any other state, relating to commercial banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, insurance companies, or real estate investment trusts as defined in 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service corporations thereof;

(b) Any person doing business under the consumer loan act is exempt from this chapter only for that business conducted under the authority and coverage of the consumer loan act;

(c) An attorney licensed to practice law in this state (~~who is not principally engaged in the business of negotiating residential mortgage loans when such attorney renders services in the course of his or her practice as an attorney~~). However, (i) all mortgage broker or loan originator services must be performed by the attorney while engaged in the practice of law; (ii) all mortgage broker or loan originator services must be performed under a business that is publicly identified and operated as a law practice; and (iii) all funds associated with the transaction and received by the attorney must be deposited in, maintained in, and disbursed from a trust account to the extent required by rules enacted by the Washington supreme court regulating the conduct of attorneys;

(d) Any person doing any act under order of any court, except for a person subject to an injunction to comply with any provision of this chapter or any order of the director issued under this chapter;

(e) A real estate broker or salesperson licensed by the state who obtains financing for a real estate transaction involving a bona fide sale of real estate in the performance of his or her duties as a real estate broker and who receives only the customary real estate broker's or salesperson's commission in connection with the transaction;

(f) The United States of America, the state of Washington, any other state, and any Washington city, county, or other political subdivision, and any agency, division, or corporate instrumentality of any of the entities in this subsection (1)(f);

(g) A real estate broker who provides only information regarding rates, terms, and lenders in connection with a CLI system, who receives a fee for providing such information, who conforms to all rules of the director with respect to the providing of such service, and who discloses on a form approved by the director that to obtain a loan the borrower must deal directly with a mortgage broker or lender. However, a real estate broker shall not be exempt if he or she does any of the following:

(i) Holds himself or herself out as able to obtain a loan from a lender;

(ii) Accepts a loan application, or submits a loan application to a lender;

(iii) Accepts any deposit for third-party services or any loan fees from a borrower, whether such fees are paid before, upon, or after the closing of the loan;

(iv) Negotiates rates or terms with a lender on behalf of a borrower; or

(v) Provides the disclosure required by RCW 19.146.030(1);

(h) Registered mortgage loan originators, or any individual required to be registered; and

(i) A manufactured or modular home retailer employee who performs purely administrative or clerical tasks and who receives only the customary salary or commission from the employer in connection with the transaction.

(2) Any person otherwise exempted from the licensing provisions of this chapter may voluntarily submit an application to the director for a mortgage broker's license. The director shall review such application and may grant or deny licenses to such applicants upon the same grounds and with the same fees as may be applicable to persons required to be licensed under this chapter.

(a) Upon receipt of a license under this subsection, the licensee is required to continue to maintain a valid license, is subject to all provisions of this chapter, and has no further right to claim exemption from the provisions of this chapter except as provided in (b) of this subsection.

(b) Any licensee under this subsection who would otherwise be exempted from the requirements of licensing by this section may apply to the director for exemption from licensing. The director shall adopt rules for reviewing such applications and shall grant exemptions from licensing to applications which are consistent with those rules and consistent with the other provisions of this chapter.

Sec. 3. RCW 19.146.0201 and 2009 c 528 s 3 are each amended to read as follows:

It is a violation of this chapter for a loan originator or mortgage broker required to be licensed under this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Engage in any unfair or deceptive practice toward any person;

(3) Obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting from a person exempt from licensing under RCW 19.146.020(1)(f) or a lender with whom the mortgage broker maintains a written correspondent or loan broker agreement under RCW 19.146.040;

(6) Fail to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed by a mortgage broker or in connection with any investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(10) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by such rate of interest;

(11) ~~Fail to comply with ((any requirement of the truth-in-lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226; the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and Regulation X, 24 C.F.R. Sec. 3500; the equal credit opportunity act, 15 U.S.C. Sec. 1691 and Regulation B, Sec. 202.9, 202.11, and 202.12; Title V, Subtitle A of the financial modernization act of 1999 (known as the "Gramm-Leach-Bliley act"), 12 U.S.C. Secs. 6801-6809; the federal trade commission's privacy rules, 16 C.F.R. Parts 313-314, mandated by the Gramm-Leach-Bliley act; the home mortgage disclosure act, 12 U.S.C. Sec. 2801 et seq. and Regulation C, home mortgage disclosure; the federal trade commission act, 12 C.F.R. Part 203, 15 U.S.C. Sec. 45(a); the telemarketing and consumer fraud and abuse act, 15 U.S.C. Secs. 6101 to 6108; and the federal trade commission telephone sales rule, 16 C.F.R. Part 310, as these acts existed on January 1, 2007, or such subsequent date as may be provided by the department by rule, in any advertising of residential mortgage loans, or any other applicable mortgage broker or loan originator activities covered by the acts. The department may adopt by rule requirements that mortgage brokers and loan originators comply with other applicable federal statutes and regulations in any advertising of residential mortgage loans, or any other mortgage broker or loan originator activity)) state and federal laws applicable to the activities governed by this chapter;~~

(12) Fail to pay third-party providers no later than thirty days after the recording of the loan closing documents or ninety days after completion of the third-party service, whichever comes first, unless otherwise agreed or unless the third-party service provider has been notified in writing that a bona fide dispute exists regarding the performance or quality of the third-party service;

(13) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or 19.146.070;

(14)(a) Except when complying with (b) and (c) of this subsection, act as a loan originator in any transaction (i) in which the loan originator acts or has acted as a real estate broker or salesperson or (ii) in which another person doing business under the same licensed real estate broker acts or has acted as a real estate broker or salesperson;

(b) Prior to providing mortgage services to the borrower, a loan originator, in addition to other disclosures required by this chapter and other laws, shall provide to the borrower the following written disclosure:

THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO YOU. I AM ALSO A LOAN ORIGINATOR, AND WOULD LIKE TO PROVIDE MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY.

YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON SHOP WITH OTHER

MORTGAGE BROKERS AND LENDERS, AND TO SELECT ANY
MORTGAGE BROKER OR LENDER OF YOUR CHOOSING; and

(c) A real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a mortgage broker shall carry on such mortgage broker business activities and shall maintain such person's mortgage broker business records separate and apart from the real estate broker activities conducted pursuant to chapter 18.85 RCW. Such activities shall be deemed separate and apart even if they are conducted at an office location with a common entrance and mailing address, so long as each business is clearly identified by a sign visible to the public, each business is physically separated within the office facility, and no deception of the public as to the separate identities of the broker business firms results. This subsection (14)(c) shall not require a real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a mortgage broker to maintain a physical separation within the office facility for the conduct of its real estate and mortgage broker activities where the director determines that maintaining such physical separation would constitute an undue financial hardship upon the mortgage broker and is unnecessary for the protection of the public; or

(15) Fail to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections.

Sec. 4. RCW 19.146.060 and 2006 c 19 s 7 are each amended to read as follows:

(1) A mortgage broker shall use generally accepted accounting principles.

(2) Except as otherwise provided in subsection (3) of this section, a mortgage broker shall maintain accurate and current books and records which shall be readily available at a location available to the director until at least ~~((twenty five months))~~ three years have elapsed following the effective period to which the books and records relate.

(3) Where a mortgage broker's usual business location is outside of the state of Washington, the mortgage broker shall, as determined by the director by rule, either maintain its books and records at a location in this state, or reimburse the director for his or her expenses, including but not limited to transportation, food, and lodging expenses, relating to any examination or investigation resulting under this chapter.

(4) "Books and records" includes but is not limited to:

(a) Copies of all advertisements placed by or at the request of the mortgage broker which mention rates or fees. In the case of radio or television advertisements, or advertisements placed on a telephonic information line or other electronic source of information including but not limited to a computer database or electronic bulletin board, a mortgage broker shall keep copies of the precise script for the advertisement. All advertisement records shall include for each advertisement the date or dates of publication and name of each periodical, broadcast station, or telephone information line which published the advertisement or, in the case of a flyer or other material distributed by the mortgage broker, the dates, methods, and areas of distribution; and

(b) Copies of all documents, notes, computer records if not stored in printed form, correspondence or memoranda relating to a borrower from whom the mortgage broker has accepted a deposit or other funds, or accepted a residential

mortgage loan application or with whom the mortgage broker has entered into an agreement to assist in obtaining a residential mortgage loan.

Sec. 5. RCW 19.146.220 and 2006 c 19 s 13 are each amended to read as follows:

(1) The director may enforce all laws and rules relating to the licensing of mortgage brokers and loan originators, grant or deny licenses to mortgage brokers and loan originators, and hold hearings.

(2) The director may impose fines or order restitution against licensees or other persons subject to this chapter, or deny, suspend, decline to renew, or revoke licenses for:

(a) Violations of orders, including cease and desist orders;

(b) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(c) Failure to pay a fee required by the director or maintain the required bond;

(d) Failure to comply with any directive, order, or subpoena of the director;

or

(e) Any violation of this chapter.

(3) The director may impose fines on an employee, loan originator, independent contractor, or agent of the licensee, or other person subject to this chapter for:

(a) Any violations of ((~~RCW 19.146.0201 (1) through (9) or (13), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265~~)) this chapter; or

(b) Failure to comply with any directive or order of the director.

(4) The director may issue orders directing a licensee, its employee, loan originator, independent contractor, agent, or other person subject to this chapter to cease and desist from conducting business.

(5) The director may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(a) Any violation of ((~~19.146.0201 (1) through (9) or (13), 19.146.030 through 19.146.080, 19.146.200, 19.146.205(4), or 19.146.265~~)) this chapter;

(b) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(c) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(d) Failure to comply with any directive or order of the director.

(6) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

(7) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.

(8) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for

reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

Sec. 6. RCW 19.146.240 and 1997 c 106 s 15 are each amended to read as follows:

(1) The director or any person injured by a violation of this chapter may bring an action against the surety bond or approved alternative of the licensed mortgage broker who committed the violation or who employed or engaged the loan originator who committed the violation.

(2)(a) The director or any person who is damaged by the licensee's or its loan originator's violation of this chapter, or rules adopted under this chapter, may bring suit upon the surety bond or approved alternative in the superior court of any county in which jurisdiction over the licensee may be obtained. Jurisdiction shall be exclusively in the superior court. ~~((Any such action must be brought not later than one year after the alleged violation of this chapter or rules adopted under this chapter.))~~ Except as provided in subsection (2)(b) of this section, in the event valid claims of borrowers against a bond or deposit exceed the amount of the bond or deposit, each borrower claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond or deposit, without regard to the date of filing of any claim or action. If, after all valid borrower claims are paid, valid claims by nonborrower claimants exceed the remaining amount of the bond or deposit, each nonborrower claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond or deposit, without regard to the date of the filing of any claim or action. A judgment arising from a violation of this chapter or rule adopted under this chapter shall be entered for actual damages and in no case be less than the amount paid by the borrower to the licensed mortgage broker plus reasonable attorneys' fees and costs. In no event shall the surety bond or approved alternative provide payment for any trebled or punitive damages.

(b) Borrowers shall be given priority over the director and other persons in distributions in actions against the surety bond. The director and other third parties shall then be entitled to distribution to the extent of their claims as found valid against the remainder of the bond. In the case of claims made by any person or entity who is not a borrower, no final judgment may be entered prior to one hundred eighty days following the date the claim is filed. This provision regarding priority shall not restrict the right of any claimant to file a claim ~~((within one year))~~.

(3) The remedies provided under this section are cumulative and nonexclusive and do not affect any other remedy available at law.

Passed by the Senate March 12, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 31

[Senate Bill 5212]

HORSE PARK AUTHORITY

AN ACT Relating to the Washington state horse park authority; amending RCW 79A.30.030; 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 Washington state horse park authority is a unique public-private partnership for providing equestrian recreational opportunities. Because the authority is a statutorily created nonprofit corporation, its growth as an organization requires statutory authorization. The legislature finds that expanding membership of the authority's board will: Allow additional board representation for the geographic and sports discipline diversity of equestrian interests; add relevant business experience to the board; and avoid duplicating efforts of other organizations.

Sec. 2. RCW 79A.30.030 and 2011 1st sp.s. c 21 s 32 are each amended to read as follows:

(1) A nonprofit corporation may be formed under the nonprofit corporation provisions of chapter 24.03 RCW to carry out the purposes of this chapter. Except as provided in RCW 79A.30.040, the corporation shall have all the powers and be subject to the same restrictions as are permitted or prescribed to nonprofit corporations and shall exercise those powers only for carrying out the purposes of this chapter and those purposes necessarily implied therefrom. The nonprofit corporation shall be known as the Washington state horse park authority. The articles of incorporation shall provide that it is the responsibility of the authority to develop, promote, operate, manage, and maintain the Washington state horse park. The articles of incorporation shall provide for appointment of directors and other conduct of business consistent with the requirements of this chapter.

(2)(a) The articles of incorporation shall provide for ~~((a seven-))~~ an eleven- member board of directors for the authority, all appointed by the commission. Board members shall serve three-year terms, except that two of the original appointees shall serve one-year terms, and two of the original appointees shall serve two-year terms. Of the board members appointed pursuant to this act, one shall serve an initial one-year term, one shall serve an initial two-year term, and two shall serve an initial term of three years. A board member may serve consecutive terms.

(b) The articles of incorporation shall provide that the commission appoint board members as follows:

(i) One board member shall represent the interests of the commission;

(ii) One board member shall represent the interests of the county in which the park is located. In making this appointment, the commission shall solicit recommendations from the county legislative authority; and

(iii) ~~((Five))~~ Nine board members shall represent the geographic and sports discipline diversity of equestrian interests in the state, and at least ~~((one))~~ three of these members shall have business experience relevant to the organization of horse shows or operation of a horse show facility. In making these appointments, the commission shall solicit recommendations from a variety of active horse-related organizations in the state.

(3) The articles of incorporation shall include a policy that provides for the preferential use of a specific area of the horse park facilities at nominal cost for horse groups associated with youth groups and individuals with disabilities.

(4) The commission shall make appointments to fill board vacancies for positions authorized under subsection (2) of this section, upon additional solicitation of recommendations from the board of directors.

(5) The board of directors shall perform their duties in the best interests of the authority, consistent with the standards applicable to directors of nonprofit corporations under RCW 24.03.127.

Passed by the Senate February 25, 2013.

Passed by the House April 11, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 32

[Senate Bill 5235]

INDIAN CHILDREN—PURCHASE OF CARE

AN ACT Relating to the purchase of care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; amending RCW 74.13.031; reenacting and amending RCW 74.13.031; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 74.13.031 and 2012 c 52 s 2 are each amended to read as follows:

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or

persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department and the supervising agencies shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department and supervising agencies are encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department or supervising agencies shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(6) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) The department and supervising agency shall have authority to purchase care for children.

(9) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10) The department and supervising agencies shall have authority to provide continued extended foster care services to youth ages eighteen to twenty-one years to participate in or complete a secondary education program or a secondary education equivalency program, or a postsecondary academic or

postsecondary vocational education program. The department shall develop and implement rules regarding youth eligibility requirements.

(11) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection (10) of this section.

(12) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(13) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order(~~;~~ and). The purchase of such care is exempt from the requirements of chapter 74.13B RCW and may be purchased from the federally recognized Indian tribe or tribally licensed child-placing agency, and shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(14) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(15) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(16) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(17)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department

has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

Sec. 2. RCW 74.13.031 and 2012 c 259 s 8 and 2012 c 52 s 2 are each reenacted and amended to read as follows:

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) As provided in RCW 26.44.030(11), the department may respond to a report of child abuse or neglect by using the family assessment response.

(5) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(6) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of

the legislature as defined in RCW 74.13.010 and 74.15.010. Under this section children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month. The department and the supervising agencies shall randomly select no less than ten percent of the caregivers currently providing care to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit through the random selection process for two consecutive years. If the caseworker makes a good faith effort to conduct the unannounced visit to a caregiver and is unable to do so, that month's visit to that caregiver need not be unannounced. The department and supervising agencies are encouraged to group monthly visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits. The department shall use a method of random selection that does not cause a fiscal impact to the department.

The department or supervising agencies shall conduct the monthly visits with children and caregivers to whom it is providing child welfare services.

(7) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(8) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(9) The department and supervising agency shall have authority to purchase care for children.

(10) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(11) The department and supervising agencies shall have authority to provide continued extended foster care services to youth ages eighteen to twenty-one years to participate in or complete a secondary education program or a secondary education equivalency program, or a postsecondary academic or postsecondary vocational education program. The department shall develop and implement rules regarding youth eligibility requirements.

(12) The department shall have authority to provide adoption support benefits, or relative guardianship subsidies on behalf of youth ages eighteen to twenty-one years who achieved permanency through adoption or a relative guardianship at age sixteen or older and who meet the criteria described in subsection (11) of this section.

(13) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(14) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order(;- and)). The purchase of such care is exempt from the requirements of chapter 74.13B RCW and may be purchased from the federally recognized Indian tribe or tribally licensed child-placing agency, and shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department under subsections (4), (7), and (8) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(15) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(16) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(17) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(18)(a) The department shall, within current funding levels, place on its public web site a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

- (i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;
- (ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);
- (iii) Parent-child visits;
- (iv) Statutory preference for placement with a relative or other suitable person, if appropriate; and

(v) Statutory preference for an out-of-home placement that allows the child to remain in the same school or school district, if practical and in the child's best interests.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

NEW SECTION. **Sec. 3.** Section 2 of this act takes effect December 1, 2013.

NEW SECTION. **Sec. 4.** Section 1 of this act expires December 1, 2013.

Passed by the Senate February 27, 2013.

Passed by the House April 11, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 33

[Substitute Senate Bill 5274]

MOTORCYCLE EDUCATION—PRIVATE PROGRAMS

AN ACT Relating to private motorcycle skills education programs; amending RCW 46.81A.020; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 46.81A.020 and 2007 c 97 s 2 are each amended to read as follows:

(1) The director shall administer and enforce the law pertaining to the motorcycle skills education program as set forth in this chapter.

(2) The director may adopt and enforce reasonable rules that are consistent with this chapter.

(3) The director shall revise the Washington motorcycle safety program to:

(a) Institute separate novice and advanced motorcycle skills education courses for both two-wheeled and three-wheeled motorcycles that are each a minimum of eight hours and no more than sixteen hours at a cost, except as provided in subsection (5) of this section, of (i) no more than fifty dollars for Washington state residents under the age of eighteen, and (ii) no more than one hundred twenty-five dollars for Washington state residents who are eighteen years of age or older and military personnel of any age stationed in Washington state;

(b) Encourage the use of loaned or used motorcycles for use in the motorcycle skills education course if the instructor approves them;

(c) Require all instructors for two-wheeled motorcycles to conduct at least three classes in a one-year period, and all instructors for three-wheeled motorcycles to conduct at least one class in a one-year period, to maintain their teaching eligibility.

(4) The department may enter into agreements to review and certify that a private motorcycle skills education course meets educational standards equivalent to those required of courses conducted under the motorcycle skills education program. An agreement entered into under this subsection must provide that the department may conduct periodic audits to ensure that educational standards continue to meet those required for courses conducted

under the motorcycle skills education program, and that the costs of the review, certification, and audit process will be borne by the party seeking certification.

(5) Subject to the requirements provided in this subsection, the department must allow private motorcycle skills education programs to offer motorcycle safety education where students pay the full cost for the training. After the department has reviewed and certified that a private motorcycle skills education course proposed under this subsection meets educational standards equivalent to those offered under subsection (3)(a) of this section, the department must enter into an agreement with the private motorcycle skills education program. An agreement entered into under this subsection must provide that (a) the department may conduct periodic audits to ensure that educational standards continue to meet those of other programs approved by the department, and (b) the costs of the review, certification, and audit process will be borne by the program seeking certification.

(6) The department shall obtain and compile information from applicants for a motorcycle endorsement regarding whether they have completed a state approved or certified motorcycle skills education course.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2013.

Passed by the Senate March 4, 2013.

Passed by the House April 11, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 34

[Senate Bill 5302]

CREDIT UNIONS—CORPORATE GOVERNANCE AND INVESTMENTS

AN ACT Relating to credit unions' corporate governance and investments; and amending RCW 31.12.005, 31.12.195, 31.12.225, 31.12.235, 31.12.285, 31.12.365, 31.12.426, 31.12.436, 31.12.438, 31.12.461, and 31.12.630.

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

Sec. 1. RCW 31.12.005 and 2010 c 87 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter:

- (1) "Board" means the board of directors of a credit union.
- (2) "Board officer" means an officer of the board elected under RCW 31.12.265(1).
- (3) "Branch" of a credit union, out-of-state credit union, or foreign credit union means any facility that meets all of the following criteria:
 - (a) The facility is a staffed physical facility;
 - (b) The facility is owned or leased in whole or part by the credit union or its credit union service organization; and
 - (c) Deposits and withdrawals may be made, or shares purchased, through staff at the facility.

(4) "Capital" means a credit union's reserves, undivided earnings, and allowance for loan and lease losses, and other items that may be included under RCW 31.12.413 or by rule or order of the director.

(5) "Credit union" means a credit union organized and operating under this chapter.

(6) "Credit union service organization" means an organization that a credit union has invested in pursuant to RCW 31.12.436(~~((8))~~) (1)(h), or a credit union service organization invested in by an out-of-state, federal, or foreign credit union.

(7) "Department" means the department of financial institutions.

(8) "Director" means the director of financial institutions.

(9) "Federal credit union" means a credit union organized and operating under the laws of the United States.

(10) "Financial institution" means any commercial bank, trust company, savings bank, or savings and loan association, whether state or federally chartered, and any credit union, out-of-state credit union, or federal credit union.

(11) "Foreign credit union" means a credit union organized and operating under the laws of another country or other foreign jurisdiction.

(12) "Insolvency" means:

(a) If, under United States generally accepted accounting principles, the recorded value of the credit union's assets are less than its obligations to its share account holders, depositors, creditors, and others; or

(b) If it is likely that the credit union will be unable to pay its obligations or meet its share account holders' and depositors' demands in the normal course of business.

(13) "Loan" means any loan, overdraft line of credit, extension of credit, or lease, in whole or in part.

(14) "Material violation of law" means:

(a) If the credit union or person has violated a material provision of:

(i) Law;

(ii) Any cease and desist order issued by the director;

(iii) Any condition imposed in writing by the director in connection with the approval of any application or other request of the credit union; or

(iv) Any supervisory agreement, or any other written agreement entered into with the director;

(b) If the credit union or person has concealed any of the credit union's books, papers, records, or assets, or refused to submit the credit union's books, papers, records, or affairs for inspection to any examiner of the state or, as appropriate, to any examiner of the national credit union administration; or

(c) If a member of a credit union board of directors or supervisory committee, or an officer of a credit union, has breached his or her fiduciary duty to the credit union.

(15) "Membership share" means an initial share that a credit union may require a person to purchase in order to establish and maintain membership in a credit union.

(16) "Net worth" means a credit union's capital, less the allowance for loan and lease losses.

(17) "Operating officer" means an employee of a credit union designated as an officer pursuant to RCW 31.12.265(2).

(18) "Organization" means a corporation, partnership, association, limited liability company, trust, or other organization or entity.

(19) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or United States territory or possession.

(20) "Person" means an organization or a natural person including, but not limited to, a sole proprietorship.

(21) "Principally" or "primarily" means more than one-half.

(22) "Senior operating officer" includes:

(a) An operating officer who is a vice president or above; and

(b) Any employee who has policy-making authority.

(23) "Significantly undercapitalized" means a net worth to total assets ratio of less than four percent.

(24) "Small credit union" means a credit union with up to ten million dollars in total assets.

(25) "Unsafe or unsound condition" means, but is not limited to:

(a) If the credit union is insolvent;

(b) If the credit union has incurred or is likely to incur losses that will deplete all or substantially all of its net worth;

(c) If the credit union is in imminent danger of losing its share and deposit insurance or guarantee; or

(d) If the credit union is significantly undercapitalized.

(26) "Unsafe or unsound practice" means any action, or lack of action, which is contrary to generally accepted standards of prudent operation, the likely consequences of which, if continued, would be abnormal risk of loss or danger to a credit union, its members, or an organization insuring or guaranteeing its shares and deposits.

Sec. 2. RCW 31.12.195 and 1997 c 397 s 13 are each amended to read as follows:

(1) A special membership meeting of a credit union may be called by a majority of the board, a majority vote of the supervisory committee, or upon written application of at least ten percent or two thousand of the members of a credit union, whichever is less.

(2) A request for a special membership meeting of a credit union shall be in writing and shall state specifically the purpose or purposes for which the meeting is called. At this meeting, only those agenda items detailed in the written request may be considered. If the special membership meeting is being called for the removal of one or more directors, the request shall state the name of the director or directors whose removal is sought.

(3) Upon receipt of a request for a special membership meeting, the secretary of the credit union shall designate the time and place at which the special membership meeting will be held. The designated place of the meeting must be a reasonable location within the county in which the principal place of business of the credit union is located, unless provided otherwise by the bylaws. The designated time of the membership meeting must be ~~((no sooner than twenty, and))~~ no later than ~~((thirty))~~ ninety days after the request is received by the secretary.

The secretary shall give notice of the meeting ~~((within ten days of receipt of the request))~~ at least thirty days before the special membership meeting, or within such other reasonable time period as may be provided by the bylaws. The

notice must include the purpose or purposes for which the meeting is called, (~~as provided in the bylaws. If~~) and, if the special membership meeting is being called for the removal of one or more directors, the notice must state the name of the director or directors whose removal is sought.

(4) Except as provided in this subsection, the chairperson of the board shall preside over special membership meetings. If the purpose of the special meeting includes the proposed removal of the chairperson, the next highest ranking board officer whose removal is not sought shall preside over the special meeting. If the removal of all board officers is sought, the chairperson of the supervisory committee shall preside over the special meeting.

(5) Special membership meetings shall be conducted according to the rules of procedure approved by the board.

Sec. 3. RCW 31.12.225 and 2001 c 83 s 6 are each amended to read as follows:

(1) The business and affairs of a credit union shall be managed by a board of not less than five and not greater than fifteen directors.

(2) The directors must be elected at the credit union's annual membership meeting. They shall hold their offices until their successors are qualified and elected or appointed.

(3) Directors shall be elected to terms of between one and three years, as provided in the bylaws. If the terms are longer than one year, the directors must be divided into classes, and an equal number of directors, as nearly as possible, must be elected each year.

(4) Any vacancy on the board must be filled by an interim director appointed by the board, unless the interim director would serve a term of fewer than ninety days. Interim directors appointed to fill vacancies created by expansion of the board will serve until the next annual meeting of members. Other interim directors will serve out the unexpired term of the former director, unless provided otherwise in the credit union's bylaws.

(5) The board will have at least six regular meetings ((not less frequently than once each month)) each year, with at least one of these meetings held in each calendar quarter. The director may require the board to meet more frequently than six times per year if the director finds it necessary in order to address matters noted in any examination. The director may adopt rules to interpret this section.

Sec. 4. RCW 31.12.235 and 2001 c 83 s 7 are each amended to read as follows:

(1) A director must be a natural person and a member of the credit union. If a director ceases to be a member of the credit union, the director shall no longer serve as a director.

(2)(a) If a director is absent from (~~four~~) more than one-fourth of the regular board meetings in any twelve-month period in a term without being reasonably excused by the board, the director shall no longer serve as a director for the period remaining in the term.

(b) The board secretary shall promptly notify the director that he or she shall no longer serve as a director. Failure to provide notice does not affect the termination of the director's service under (a) of this subsection.

(3) A director must meet any qualification requirements set forth in the credit union's bylaws. If a director fails to meet these requirements, the director shall no longer serve as a director.

(4) The operating officers and employees of the credit union may serve as directors of the credit union, but only as permitted by the credit union's bylaws. In no event may the operating officers and employees of the credit union constitute a majority of the board.

Sec. 5. RCW 31.12.285 and 1997 c 397 s 21 are each amended to read as follows:

The board may (~~suspend~~), for cause, suspend a member of the board or a member of the supervisory committee until a special membership meeting, called for that purpose, is held under RCW 31.12.195. The membership meeting must be held within (~~thirty~~) sixty days after the suspension. The members attending the meeting shall vote whether to remove a suspended party. For purposes of this section, "cause" includes demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the board, threaten the safety and soundness of the credit union.

Sec. 6. RCW 31.12.365 and 2001 c 83 s 12 are each amended to read as follows:

(1) A credit union may pay to its directors and supervisory committee members (~~(of committees shall not receive)~~) reasonable compensation for their service as directors and supervisory committee members. (~~((However, this subsection does not prohibit))~~) A credit union may also provide to its directors (~~((or))~~) and supervisory committee members (~~((from receiving))~~):

(a) Gifts of minimal value; (~~and~~)

(b) Insurance coverage or incidental services, available to employees generally(~~(-~~

~~(2) Directors and members of committees may receive)); and~~

(c) Reimbursement for reasonable expenses incurred on behalf of themselves and their spouses in the performance of the directors' and supervisory committee members' duties.

~~((3) Loans to directors and supervisory and credit committee members may not be made under more favorable terms and conditions than those made to members generally)) (2) The director may adopt rules to interpret this section.~~

Sec. 7. RCW 31.12.426 and 2001 c 83 s 17 are each amended to read as follows:

(1) A credit union may make secured and unsecured loans to its members under policies established by the board, subject to the loans to one borrower limits provided for in RCW 31.12.428. Each loan must be evidenced by records adequate to support enforcement or collection of the loan and any review of the loan by the director. Loans must be in compliance with rules adopted by the director.

(2) Loans to directors, supervisory committee members, and credit committee members may not be made under more favorable terms and conditions than those made to members generally.

(3) A credit union may obligate itself to purchase loans in accordance with RCW 31.12.436(1)(a), if the credit union's underwriting policies would have permitted it to originate the loans.

Sec. 8. RCW 31.12.436 and 2001 c 83 s 19 are each amended to read as follows:

(1) A credit union may invest its funds in any of the following, as long as ~~(they)~~ the investments are deemed prudent by the board:

~~((4))~~ (a) Loans held by credit unions, out-of-state credit unions, or federal credit unions; loans to members held by other lenders; and loans to nonmembers held by other lenders, with the approval of the director;

~~((2))~~ (b) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

~~((3))~~ (c) Obligations issued by corporations designated under 31 U.S.C. Sec. 9101, or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association, federal home loan mortgage corporation, government national mortgage association, or other government-sponsored enterprise;

~~((4))~~ (d) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States has been named to act as trustee;

~~((5))~~ (e) Share or deposit accounts of other financial institutions, the accounts of which are federally insured or insured or guaranteed by another insurer or guarantor approved by the director. The shares and deposits made by a credit union under this subsection (1)(e) may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the shares or deposits are made;

~~((6))~~ (f) Common trust or mutual funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

~~((7))~~ (g) Up to five percent of the capital of the credit union, in debt or equity issued by an organization owned by the Washington credit union league;

~~((8))~~ (h) Shares, stocks, loans, or other obligations of organizations whose primary purpose is to strengthen, advance, or provide services to the credit union industry or credit union members. A credit union may in the aggregate invest an amount not to exceed one percent of its assets in organizations under this subsection (1)(h). In addition, a credit union may in the aggregate lend an amount not to exceed one percent of its assets to organizations under this subsection (1)(h). These limits do not apply to investments in, and loans to, an organization:

~~((a))~~ (i) That is wholly owned by one or more credit unions or federal or out-of-state credit unions; and

~~((b))~~ (ii) Whose activities are limited exclusively to those authorized by this chapter for a credit union;

~~((9))~~ (i) Loans to credit unions, out-of-state credit unions, or federal credit unions. The aggregate of loans issued under this subsection (1)(i) is limited to twenty-five percent of the total shares and deposits of the lending credit union;

~~((10))~~ (j) Key person insurance policies, the proceeds of which inure exclusively to the benefit of the credit union; ~~((e))~~

~~(11))~~ (k) A registered investment company or collective investment fund, as long as the prospectus of the company or fund restricts the investment portfolio to investments and investment transactions that are permissible for credit unions; or

(1) Other investments approved by the director upon written application.

(2) If a credit union has lawfully made an investment that later becomes impermissible because of a change in circumstances or law, and the director finds that this investment will have an adverse effect on the safety and soundness of the credit union, then the director may require that the credit union develop a reasonable plan for the divestiture of the investment.

Sec. 9. RCW 31.12.438 and 2001 c 83 s 20 are each amended to read as follows:

(1) A credit union may invest in real property or leasehold interests primarily for its own use or the use of a credit union service organization in conducting business, including, but not limited to, structures and fixtures attached to real property, subject to the following limitations:

(a) The credit union's net worth equals at least five percent of the total of its share and deposit accounts;

(b) The board approves the investment; and

(c) The aggregate of all such investments does not exceed seven and one-half percent of the total of its share and deposit accounts.

(2) If the real property or leasehold interest is acquired for future expansion, the credit union must ~~((satisfy the use requirement in subsection (1) of this section))~~ partially occupy the premises within three years after the credit union makes the investment, if the premises are improved at the time of acquisition, or within six years after the credit union makes the investment, if the premises are unimproved at the time of acquisition.

(3) The director may, upon written application, waive any of the limitations listed in subsection (1) or (2) of this section, and the director may adopt rules to interpret this section.

Sec. 10. RCW 31.12.461 and 2001 c 83 s 21 are each amended to read as follows:

(1) For purposes of this section, the merging credit union is the credit union whose charter ceases to exist upon merger with the continuing credit union. The continuing credit union is the credit union whose charter continues upon merger with the merging credit union.

(2) A credit union may be merged with another credit union with the approval of the director and in accordance with requirements the director may prescribe. The merger must be approved by a ~~((two-thirds))~~ majority vote of the board of each credit union and a two-thirds majority vote of those members of the merging credit union voting on the merger at a membership meeting. The requirement of approval by the members of the merging credit union may be waived by the director if the merging credit union is in imminent danger of insolvency.

(3) The property, rights, and interests of the merging credit union transfer to and vest in the continuing credit union without deed, endorsement, or instrument of transfer, although instruments of transfer may be used if their use is deemed appropriate. The debts and obligations of the merging credit union that are

known or reasonably should be known are assumed by the continuing credit union. The continuing credit union shall cause to be published notice of merger once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal place of business of the merging credit union is located. The notice of merger must also inform creditors of the merging credit union how to make a claim on the continuing credit union, and that if a claim is not made upon the continuing credit union within thirty days of the last date of publication, creditors' claims that are not known by the continuing credit union may be barred. Except for claims filed as requested by the notice, or debts or obligations that are known or reasonably should be known by the continuing credit union, the debts and obligations of the merging credit union are discharged. Upon merger, the charter of the merging credit union ceases to exist.

(4) Mergers are effective after the thirty-day notice period to creditors and all regulatory waiting periods have expired, and upon filing of the credit union's articles of merger by the secretary of state, or a later date stated in the articles, which in no event may be later than ninety days after the articles are filed.

Sec. 11. RCW 31.12.630 and 1997 c 397 s 58 are each amended to read as follows:

The director may request a special meeting of the board of a credit union if the director believes that a special meeting is necessary for the welfare of the credit union or the purposes of this chapter. The director's request for a special board meeting must be made in writing to the secretary of the board (~~and the request must be handled in the same manner as a call for a special meeting under RCW 31.12.195~~). On receipt of such a request, the secretary shall designate a time and place for the special board meeting, which shall be held within thirty days after receipt of the request. The director may require the attendance of all of the directors at the special board meeting, and an absence unexcused by the director constitutes a violation of this chapter.

Passed by the Senate February 26, 2013.

Passed by the House April 12, 2013.

Approved by the Governor April 22, 2013.

Filed in Office of Secretary of State April 23, 2013.

CHAPTER 35

[Engrossed Substitute House Bill 1647]

LANDLORD/TENANT—LEASES—KEYS

AN ACT Relating to landlord responsibilities regarding keys to leased premises; and amending RCW 59.18.060.

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

Sec. 1. RCW 59.18.060 and 2011 c 132 s 2 are each amended to read as follows:

The landlord will at all times during the tenancy keep the premises fit for human habitation, and shall in particular:

(1) Maintain the premises to substantially comply with any applicable code, statute, ordinance, or regulation governing their maintenance or operation, which the legislative body enacting the applicable code, statute, ordinance or

regulation could enforce as to the premises rented if such condition endangers or impairs the health or safety of the tenant;

(2) Maintain the structural components including, but not limited to, the roofs, floors, walls, chimneys, fireplaces, foundations, and all other structural components, in reasonably good repair so as to be usable;

(3) Keep any shared or common areas reasonably clean, sanitary, and safe from defects increasing the hazards of fire or accident;

(4) Provide a reasonable program for the control of infestation by insects, rodents, and other pests at the initiation of the tenancy and, except in the case of a single-family residence, control infestation during tenancy except where such infestation is caused by the tenant;

(5) Except where the condition is attributable to normal wear and tear, make repairs and arrangements necessary to put and keep the premises in as good condition as it by law or rental agreement should have been, at the commencement of the tenancy;

(6) Provide reasonably adequate locks and furnish keys to the tenant;

(7) Maintain and safeguard with reasonable care any master key or duplicate keys to the dwelling unit;

(8) Maintain all electrical, plumbing, heating, and other facilities and appliances supplied by him or her in reasonably good working order;

~~((8))~~ (9) Maintain the dwelling unit in reasonably weathertight condition;

~~((9))~~ (10) Except in the case of a single-family residence, provide and maintain appropriate receptacles in common areas for the removal of ashes, rubbish, and garbage, incidental to the occupancy and arrange for the reasonable and regular removal of such waste;

~~((10))~~ (11) Provide facilities adequate to supply heat and water and hot water as reasonably required by the tenant;

~~((11))~~ (12)(a) Provide a written notice to all tenants disclosing fire safety and protection information. The landlord or his or her authorized agent must provide a written notice to the tenant that the dwelling unit is equipped with a smoke detection device as required in RCW 43.44.110. The notice shall inform the tenant of the tenant's responsibility to maintain the smoke detection device in proper operating condition and of penalties for failure to comply with the provisions of RCW 43.44.110(3). The notice must be signed by the landlord or the landlord's authorized agent and tenant with copies provided to both parties. Further, except with respect to a single-family residence, the written notice must also disclose the following:

(i) Whether the smoke detection device is hard-wired or battery operated;

(ii) Whether the building has a fire sprinkler system;

(iii) Whether the building has a fire alarm system;

(iv) Whether the building has a smoking policy, and what that policy is;

(v) Whether the building has an emergency notification plan for the occupants and, if so, provide a copy to the occupants;

(vi) Whether the building has an emergency relocation plan for the occupants and, if so, provide a copy to the occupants; and

(vii) Whether the building has an emergency evacuation plan for the occupants and, if so, provide a copy to the occupants.

(b) The information required under this subsection may be provided to a tenant in a multifamily residential building either as a written notice or as a

checklist that discloses whether the building has fire safety and protection devices and systems. The checklist shall include a diagram showing the emergency evacuation routes for the occupants.

(c) The written notice or checklist must be provided to new tenants at the time the lease or rental agreement is signed;

~~((42))~~ (13) Provide tenants with information provided or approved by the department of health about the health hazards associated with exposure to indoor mold. Information may be provided in written format individually to each tenant, or may be posted in a visible, public location at the dwelling unit property. The information must detail how tenants can control mold growth in their dwelling units to minimize the health risks associated with indoor mold. Landlords may obtain the information from the department's web site or, if requested by the landlord, the department must mail the information to the landlord in a printed format. When developing or changing the information, the department of health must include representatives of landlords in the development process. The information must be provided by the landlord to new tenants at the time the lease or rental agreement is signed;

~~((43))~~ (14) The landlord and his or her agents and employees are immune from civil liability for failure to comply with subsection ~~((42))~~ (13) of this section except where the landlord and his or her agents and employees knowingly and intentionally do not comply with subsection ~~((42))~~ (13) of this section; and

~~((44))~~ (15) Designate to the tenant the name and address of the person who is the landlord by a statement on the rental agreement or by a notice conspicuously posted on the premises. The tenant shall be notified immediately of any changes in writing, which must be either (a) delivered personally to the tenant or (b) mailed to the tenant and conspicuously posted on the premises. If the person designated in this section does not reside in the state where the premises are located, there shall also be designated a person who resides in the county who is authorized to act as an agent for the purposes of service of notices and process, and if no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered such agent. Regardless of such designation, any owner who resides outside the state and who violates a provision of this chapter is deemed to have submitted himself or herself to the jurisdiction of the courts of this state and personal service of any process may be made on the owner outside the state with the same force and effect as personal service within the state. Any summons or process served out-of-state must contain the same information and be served in the same manner as personal service of summons or process served within the state, except the summons or process must require the party to appear and answer within sixty days after such personal service out of the state. In an action for a violation of this chapter that is filed under chapter 12.40 RCW, service of the notice of claim outside the state must contain the same information and be served in the same manner as required under chapter 12.40 RCW, except the date on which the party is required to appear must not be less than sixty days from the date of service of the notice of claim.

No duty shall devolve upon the landlord to repair a defective condition under this section, nor shall any defense or remedy be available to the tenant under this chapter, where the defective condition complained of was caused by

the conduct of such tenant, his or her family, invitee, or other person acting under his or her control, or where a tenant unreasonably fails to allow the landlord access to the property for purposes of repair. When the duty imposed by subsection (1) of this section is incompatible with and greater than the duty imposed by any other provisions of this section, the landlord's duty shall be determined pursuant to subsection (1) of this section.

Passed by the House March 4, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 36

[House Bill 1565]

PRESCRIPTION MONITORING PROGRAM

AN ACT Relating to funding the prescription monitoring program from the medicaid fraud penalty account; amending RCW 70.225.020 and 74.09.215; and creating a new section.

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

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

(1) The prescription monitoring program contributes to patient safety and reduction in drug errors for all patients, including medicaid beneficiaries in Washington state. Further, the prescription monitoring program provides the critical function of reducing costs borne by medicaid and provides for the detection of fraud in the medicaid system.

(2) Because of the nexus between medicaid, medicaid fraud, and cost reductions, the funding for the operations and management of the prescription monitoring program should be funded entirely from the medicaid fraud penalty account under RCW 74.09.215, with the option of funding the prescription monitoring program through voluntary contributions from private individuals and corporations as defined under Title 23, 23B, 24, or 25 RCW.

Sec. 2. RCW 70.225.020 and 2012 c 192 s 1 are each amended to read as follows:

(1) (~~When sufficient funding is provided for such purpose through federal or private grants, or is appropriated by the legislature,)~~ The department shall establish and maintain a prescription monitoring program to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the board of pharmacy as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and overprescribing of controlled substances, and improving controlled substance prescribing practices with the intent of eventually establishing an electronic database available in real time to dispensers and prescribers of controlled substances. As much as possible, the department should establish a common database with other states. This program's management and operations shall be funded entirely from the funds in the account established under RCW 74.09.215. Nothing in this chapter prohibits voluntary contributions from private individuals and business entities as defined

under Title 23, 23B, 24, or 25 RCW to assist in funding the prescription monitoring program.

(2) Except as provided in subsection (4) of this section, each dispenser shall submit to the department by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than one day use should be reported. The information submitted for each prescription shall include, but not be limited to:

- (a) Patient identifier;
- (b) Drug dispensed;
- (c) Date of dispensing;
- (d) Quantity dispensed;
- (e) Prescriber; and
- (f) Dispenser.

(3) Each dispenser shall submit the information in accordance with transmission methods established by the department.

(4) The data submission requirements of subsections (1) through (3) of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses;

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in department of corrections institutions who are receiving pharmaceutical services from a department of corrections pharmacy, except that the department of corrections must submit data related to each offender's current prescriptions for controlled substances upon the offender's release from a department of corrections institution; or

(c) Veterinarians licensed under chapter 18.92 RCW. The department, in collaboration with the veterinary board of governors, shall establish alternative data reporting requirements for veterinarians that allow veterinarians to report:

- (i) By either electronic or nonelectronic methods;
- (ii) Only those data elements that are relevant to veterinary practices and necessary to accomplish the public protection goals of this chapter; and
- (iii) No more frequently than once every three months and no less frequently than once every six months.

(5) The department shall continue to seek federal grants to support the activities described in chapter 259, Laws of 2007. The department may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation and management of the system.

Sec. 3. RCW 74.09.215 and 2012 c 241 s 103 are each amended to read as follows:

The medicaid fraud penalty account is created in the state treasury. All receipts from civil penalties collected under RCW 74.09.210, all receipts received under judgments or settlements that originated under a filing under the federal false claims act, and all receipts received under judgments or settlements that originated under the state medicaid fraud false claims act, chapter 74.66 RCW, must be deposited into the account. Moneys in the account may be spent only after appropriation and must be used only for medicaid services, fraud detection and prevention activities, recovery of improper payments, (~~and~~) for

other medicaid fraud enforcement activities, and the prescription monitoring program established in chapter 70.225 RCW.

- Passed by the House March 11, 2013.
- Passed by the Senate April 11, 2013.
- Approved by the Governor April 23, 2013.
- Filed in Office of Secretary of State April 24, 2013.

CHAPTER 37

[Engrossed Substitute House Bill 1625]

TOWING FEES—PRIVATE PROPERTY

AN ACT Relating to consumer protection for tow truck services; adding a new section to chapter 46.55 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 use of a motor vehicle is often a necessity for residents' livelihood and families. Therefore, the legislature finds it is important for the public to know what the charges and fees will be for the private impound of cars and other vehicles parked on private property, and that those charges should be reasonable to ensure that residents may retrieve impounded vehicles.

NEW SECTION. Sec. 2. A new section is added to chapter 46.55 RCW to read as follows:

(1) For a private impound performed by any registered tow truck operator using tow trucks classified by the Washington state patrol by rule under RCW 46.55.050(1) as class A, class E, or class D only, the following limitations apply:

(a) The maximum towing hourly rate listed on the fee schedule filed with the department under RCW 46.55.063(1) may not exceed one hundred thirty-five percent of the maximum hourly rate for a class A tow truck at the time of filing as negotiated by the Washington state patrol, pursuant to rule, and contained in the letter of contractual agreement and letter of appointment authorizing a registered tow truck operator to respond to state patrol-originated calls.

(b) The maximum daily storage rate listed on the fee schedule filed with the department under RCW 46.55.063(1) may not exceed one hundred thirty-five percent of the maximum daily storage rate for an impound at the time of filing as negotiated by the Washington state patrol, pursuant to rule, and contained in the letter of contractual agreement and letter of appointment authorizing a registered tow truck operator to respond to state patrol-originated calls.

(c) The maximum after hours release fee listed on the fee schedule filed with the department under RCW 46.55.063(1) may not exceed one hundred percent of the maximum after hours release fee for an impound at the time of filing as negotiated by the Washington state patrol, pursuant to rule, and contained in the letter of contractual agreement and letter of appointment authorizing a registered tow truck operator to respond to state patrol-originated calls.

(2) The limitations set forth in subsection (1) of this section apply to all registered tow truck operators whether or not they hold, have applied for, or

received letters of appointment from the Washington state patrol to respond to state patrol-originated calls.

(3) The limitations set forth in subsection (1) of this section do not apply to:

(a) Any other classes of tow trucks classified by the Washington state patrol by rule under RCW 46.55.050(1); or

(b) Law enforcement impounds or private voluntary towing.

(4) The limitations set forth in subsection (1) of this section only apply if the vehicle is parked and upright, has all its wheels and tires attached, does not have a broken axle, and has not been involved in an accident at the location from which it is being impounded.

(5) This section does not affect the authority of any city, town, or county to enforce, maintain, or amend any ordinance, enacted prior to January 1, 2013, and valid under state law in existence at the time of its enactment, that regulates maximum allowable rates and related charges for private impounds by registered tow truck operators.

Passed by the House March 9, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 38

[House Bill 1639]

ELECTIONS—PRESIDENTIAL ELECTOR COMPENSATION

AN ACT Relating to presidential elector compensation; and amending RCW 29A.56.350.

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

Sec. 1. RCW 29A.56.350 and 2003 c 111 s 1428 are each amended to read as follows:

Every presidential elector who attends at the time and place appointed, and gives his or her vote for president and vice president, is entitled to receive from this state(~~(–five dollars))~~ a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060 for each day's attendance at the meeting of the college of electors(~~(–and ten cents per mile for travel by the usually traveled route in going to and returning from the place where the electors meet))~~).

Passed by the House March 7, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 39

[Substitute House Bill 1686]

K-12 SCHOOLS—HIGH SCHOOL EQUIVALENCY CERTIFICATES

AN ACT Relating to high school equivalency certificates; amending RCW 18.55.040, 28A.150.305, 28A.175.105, 28A.205.040, 28A.305.190, 28B.50.536, 28B.116.010, 28B.117.005, 28B.119.010, 28B.145.010, 28B.145.060, 28C.10.050, 35.21.333, 36.110.140, 41.04.015, 43.215.510, 70.128.120, 72.09.410, 72.09.460, 72.09.670, 74.04.535, 74.08A.250, 74.08A.380, 74.12.035, 74.13.540, and 74.15.230; amending 2011 c 330 s 1 (uncodified); amending 2010 c 20 s 1 (uncodified); and reenacting and amending RCW 28A.205.030, 28C.18.010, and 72.09.015.

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

Sec. 1. 2011 c 330 s 1 (uncodified) is amended to read as follows:

The Washington state legislature has consistently provided national leadership on safe housing and support to foster youth transitioning out of foster care. Since 2006, the legislature has addressed the needs of foster youth aging out of care with medicaid to twenty-one (2007), foster care to twenty-one (2006), the independent youth housing program (2007), and Washington's alignment with the federal fostering connections act (2009). As a result of this national leadership to provide safe and basic housing to youth aging out of foster care, the programs have demonstrated the significant cost-benefit to providing safe housing to our youth exiting foster care.

The United States congress passed the fostering connections to success and increasing adoptions act of 2008 in order to give states another financial tool to continue to provide foster care services to dependent youth who turn eighteen years old while in foster care. However, substantially declining revenues have resulted in markedly decreased funds for states to use to meet the federal requirements necessary to help these youth. Current fiscal realities require that the scope of programs must be narrowed.

The Washington state legislature intends to serve, within the resources available, the maximum number of foster youth who are legally dependent on the state and who reach the age of eighteen while still in foster care. The legislature intends to provide these youth continued foster care services to support basic and healthy transition into adulthood. The legislature recognizes the extremely poor outcomes of unsupported foster youth aging out of the foster care system and is committed to ensuring that those foster youth who engage in positive, age-appropriate activities receive support. It is the intent of the legislature to fully engage in the fostering connections act by providing support, including extended court supervision to foster youth pursuing a high school diploma or ~~((GED))~~ high school equivalency certificate as provided in RCW 28B.50.536 to age twenty-one with the goal of increasing support to all children up to age twenty-one who are eligible under the federal fostering connections to success act as resources become available.

Sec. 2. RCW 18.55.040 and 1996 c 191 s 32 are each amended to read as follows:

No applicant shall be licensed under this chapter until the applicant complies with administrative procedures, administrative requirements, and fees determined by the secretary according to RCW 43.70.250 and 43.70.280. Qualifications must require that the applicant:

- (1) Is eighteen years or more of age;
- (2) Has graduated from high school or has received a ~~((general equivalency degree))~~ high school equivalency certificate as provided in RCW 28B.50.536;
- (3) Is of good moral character; and
- (4)(a) Had at least ten thousand hours of apprenticeship training under the direct supervision of a licensed ocularist; or
- (b) Successfully completed a prescribed course in ocularist training programs approved by the secretary; or
- (c) Has had at least ten thousand hours of apprenticeship training under the direct supervision of a practicing ocularist, or has the equivalent experience as a

practicing ocularist, or any combination of training and supervision, not in the state of Washington; and

(5) Successfully passes an examination conducted or approved by the secretary.

Sec. 3. RCW 28A.150.305 and 2002 c 291 s 1 are each amended to read as follows:

(1) The board of directors of school districts may contract with alternative educational service providers for eligible students. Alternative educational service providers that the school district may contract with include, but are not limited to:

- (a) Other schools;
- (b) Alternative education programs not operated by the school district;
- (c) Education centers;
- (d) Skills centers;
- (e) The Washington national guard youth challenge program;
- (f) Dropout prevention programs; or
- (g) Other public or private organizations, excluding sectarian or religious organizations.

(2) Eligible students include students who are likely to be expelled or who are enrolled in the school district but have been suspended, are academically at risk, or who have been subject to repeated disciplinary actions due to behavioral problems.

(3) If a school district board of directors chooses to initiate specialized programs for students at risk of expulsion or who are failing academically by contracting out with alternative educational service providers identified in subsection (1) of this section, the school district board of directors and the organization must specify the specific learning standards that students are expected to achieve. Placement of the student shall be jointly determined by the school district, the student's parent or legal guardian, and the alternative educational service provider.

(4) For the purpose of this section, the superintendent of public instruction shall adopt rules for reporting and documenting enrollment. Students may reenter at the grade level appropriate to the student's ability. Students who are sixteen years of age or older may take ~~((the GED))~~ a test to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with rules adopted under RCW 28A.305.190.

(5) The board of directors of school districts may require that students who would otherwise be suspended or expelled attend schools or programs listed in subsection (1) of this section as a condition of continued enrollment in the school district.

Sec. 4. 2010 c 20 s 1 (uncodified) is amended to read as follows:

(1) In every school district there are older youth who have become disengaged with the traditional education program of public high schools. They may have failed multiple classes and are far behind in accumulating credits to graduate. They do not see a high school diploma as an achievable goal. They may have dropped out of school entirely. They are not likely to become reengaged in their education by the prospect of reenrollment in a traditional or even an alternative high school.

(2) For many years, school districts, community and technical colleges, and community-based organizations have created partnerships to provide appropriate educational programs for these students. Programs such as career education options and career link have successfully offered individualized academic instruction, case management support, and career-oriented skills in an age-appropriate learning environment to hundreds of disengaged older youth. Preparation for ~~((the GED))~~ a test to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with rules adopted under RCW 28A.305.190 is provided but is not the end goal for students.

(3) However, in recent years, many of these partnerships have ceased to operate. The laws and rules authorizing school districts to contract using basic education allocations do not provide sufficient guidance and instead present barriers. Program providers are forced to adapt to rules that were not written to address the needs of the students being served. Questions and concerns about liability, responsibility, and administrative burden have caused districts reluctantly to abandon their partnerships, and consequently leave hundreds of students without a viable alternative for continuing their public education.

(4) Therefore the legislature intends to provide a statutory framework to support a statewide dropout reengagement system for older youth. The framework clarifies and standardizes funding, programs, and administration by directing the office of the superintendent of public instruction to develop model contracts and interlocal agreements. It is the legislature's intent to encourage school districts, community and technical colleges, and community-based organizations to participate in this system and provide appropriate instruction and services to reengage older students and help them make progress toward a meaningful credential and career skills.

Sec. 5. RCW 28A.175.105 and 2010 c 20 s 3 are each amended to read as follows:

The definitions in this section apply throughout RCW 28A.175.100 through 28A.175.110 unless the context clearly requires otherwise:

(1) "Dropout reengagement program" means an educational program that offers at least the following instruction and services:

(a) Academic instruction, including but not limited to ~~((GED))~~ preparation to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with rules adopted under RCW 28A.305.190, academic skills instruction, and college and work readiness preparation, that generates credits that can be applied to a high school diploma from the student's school district or from a community or technical college under RCW 28B.50.535 and has the goal of enabling the student to obtain the academic and work readiness skills necessary for employment or postsecondary study. A dropout reengagement program is not required to offer instruction in only those subject areas where a student is deficient in accumulated credits. Academic instruction must be provided by teachers certified by the Washington professional educator standards board or by instructors employed by a community or technical college whose required credentials are established by the college;

(b) Case management, academic and career counseling, and assistance with accessing services and resources that support at-risk youth and reduce barriers to educational success; and

(c) If the program provider is a community or technical college, the opportunity for qualified students to enroll in college courses that lead to a postsecondary degree or certificate. The college may not charge an eligible student tuition for such enrollment.

(2) "Eligible student" means a student who:

(a) Is at least sixteen but less than twenty-one years of age at the beginning of the school year;

(b) Is not accumulating sufficient credits toward a high school diploma to reasonably complete a high school diploma from a public school before the age of twenty-one or is recommended for the program by case managers from the department of social and health services or the juvenile justice system; and

(c) Is enrolled or enrolls in the school district in which the student resides, or is enrolled or enrolls in a nonresident school district under RCW 28A.225.220 through 28A.225.230.

(3) "Full-time equivalent eligible student" means an eligible student whose enrollment and attendance meet criteria adopted by the office of the superintendent of public instruction specifically for dropout reengagement programs. The criteria shall be:

(a) Based on the community or technical college credits generated by the student if the program provider is a community or technical college; and

(b) Based on a minimum amount of planned programming or instruction and minimum attendance by the student rather than hours of seat time if the program provider is a community-based organization.

Sec. 6. RCW 28A.205.030 and 1993 c 218 s 2 and 1993 c 211 s 3 are each reenacted and amended to read as follows:

The superintendent of public instruction shall adopt, by rules, policies and procedures to permit a prior common school dropout to reenter at the grade level appropriate to such individual's ability: PROVIDED, That such individual shall be placed with the class he or she would be in had he or she not dropped out and graduate with that class, if the student's ability so permits notwithstanding any loss of credits prior to reentry and if such student earns credits at the normal rate subsequent to reentry.

Notwithstanding any other provision of law, any certified education center student sixteen years of age or older, upon completion of an individual student program, ~~((shall be))~~ is eligible to take ~~((the general educational development))~~ a test to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with rules adopted under RCW 28A.305.190 as given throughout the state.

Sec. 7. RCW 28A.205.040 and 2006 c 263 s 412 are each amended to read as follows:

(1)(a) From funds appropriated for that purpose, the superintendent of public instruction shall pay fees to a certified center on a monthly basis for each student enrolled in compliance with RCW 28A.205.020. The superintendent shall set fees by rule.

(b) Revisions in such fees proposed by an education center shall become effective after thirty days notice unless the superintendent finds such a revision is unreasonable in which case the revision shall not take effect. The administration of any ~~((general education development))~~ test to earn a high

school equivalency certificate as provided in RCW 28B.50.536 in accordance with rules adopted under RCW 28A.305.190 shall not be a part of such initial diagnostic procedure.

(c) Reimbursements shall not be made for students who are absent.

(d) No center shall make any charge to any student, or the student's parent, guardian or custodian, for whom a fee is being received under the provisions of this section.

(2) Payments shall be made from available funds first to those centers that have in the judgment of the superintendent demonstrated superior performance based upon consideration of students' educational gains taking into account such students' backgrounds, and upon consideration of cost effectiveness. In considering the cost effectiveness of nonprofit centers the superintendent shall take into account not only payments made under this section but also factors such as tax exemptions, direct and indirect subsidies or any other cost to taxpayers at any level of government which result from such nonprofit status.

(3) To be eligible for such payment, every such center, without prior notice, shall permit a review of its accounting records by personnel of the state auditor during normal business hours.

(4) If total funds for this purpose approach depletion, the superintendent shall notify the centers of the date after which further funds for reimbursement of the centers' services will be exhausted.

Sec. 8. RCW 28A.305.190 and 2010 c 20 s 6 are each amended to read as follows:

The state board of education shall adopt rules governing the eligibility of a child sixteen years of age and under nineteen years of age to take ~~((the GED))~~ a test to earn a high school equivalency certificate as provided in RCW 28B.50.536 if the child provides a substantial and warranted reason for leaving the regular high school education program, if the child was home-schooled, or if the child is an eligible student enrolled in a dropout reengagement program under RCW 28A.175.100 through 28A.175.110.

Sec. 9. RCW 28B.50.536 and 1993 c 218 s 3 are each amended to read as follows:

~~(1) Subject to rules adopted by the state board of education under RCW 28A.305.190, the state board for community and technical colleges shall adopt rules governing the eligibility of persons sixteen years of age and older to take ((the general educational development)) a test to earn a high school equivalency certificate, rules governing the administration of the test, and rules governing the issuance of a high school equivalency certificate ((of educational competence)) to persons who successfully complete the test.~~

(2) A high school equivalency certificate is a certificate issued jointly by the college board and the office of the superintendent of public instruction that indicates that the holder has attained standard scores at or above the minimum proficiency level prescribed by the college board on a high school equivalency test. The college board must identify and accept a high school equivalency test that is at least as rigorous as the general educational development test. The high school equivalency test identified by the college board must cover reading, writing, mathematics, science, and social studies subject areas.

(3) High school equivalency certificates (~~(of educational competence)~~) issued under this section shall be issued in such form and substance as agreed upon by the state board for community and technical colleges and superintendent of public instruction.

Sec. 10. RCW 28B.116.010 and 2012 c 229 s 568 are each amended to read as follows:

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

(1) "Cost of attendance" means the cost associated with the attendance of the institution of higher education as determined by the office of student financial assistance, including but not limited to tuition, room, board, and books.

(2) "Eligible student" means a student who:

(a) Is between the ages of sixteen and twenty-three;

(b) Has been in foster care in the state of Washington for a minimum of six months since his or her fourteenth birthday;

(c) Is a financially needy student, as defined in RCW 28B.92.030;

(d) Is a resident student, as defined in RCW 28B.15.012(2);

(e) Has entered or will enter an institution of higher education in Washington state within three years of high school graduation or having successfully completed his or her (~~(GED)~~) high school equivalency certificate as provided in RCW 28B.50.536;

(f) Is not pursuing a degree in theology; and

(g) Makes satisfactory progress towards the completion of a degree or certificate program.

(3) "Institution of higher education" means a college or university in the state of Washington that is accredited by an accrediting association recognized as such by rule of the student achievement council.

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

Sec. 11. RCW 28B.117.005 and 2007 c 314 s 1 are each amended to read as follows:

(1)(a) The legislature finds that in Washington, there are more than seven thousand three hundred children in foster family or group care. These children face unique obstacles and burdens as they transition to adulthood, including lacking continuity in their elementary and high school educations. As compared to the general population of students, twice as many foster care youth change schools at least once during their elementary and secondary school careers, and three times as many change schools at least three times. Only thirty-four percent of foster care youth graduate from high school within four years, compared to seventy percent for the general population. Of the former foster care youth who earn a high school diploma, more than twenty-eight percent earn a (~~(GED)~~) high school equivalency certificate as provided in RCW 28B.50.536 instead of a traditional high school diploma. This is almost six times the rate of the general population. Research indicates that (~~(GED)~~) holders of high school equivalency certificates tend not to be as economically successful as the holders of traditional high school diplomas. Only twenty percent of former foster care youth who earn a high school degree enroll in college, compared to over sixty percent of the population generally. Of the former foster care youth who do enroll in college, very few go on to earn a degree. Less than two percent of former foster care

youth hold bachelor's degrees, compared to twenty-eight percent of Washington's population generally.

(b) Former foster care youth face two critical hurdles to enrolling in college. The first is a lack of information regarding preparation for higher education and their options for enrolling in higher education. The second is finding the financial resources to fund their education. As a result of the unique hurdles and challenges that face former foster care youth, a disproportionate number of them are part of society's large group of marginalized youth and are at increased risk of continuing the cycle of poverty and violence that frequently plagues their families.

(c) Former foster care youth suffer from mental health problems at a rate greater than that of the general population. For example, one in four former foster care youth report having suffered from posttraumatic stress disorder within the previous twelve months, compared to only four percent of the general population. Similarly, the incidence of major depression among former foster care youth is twice that of the general population, twenty percent versus ten percent.

(d) There are other barriers for former foster care youth to achieving successful adulthood. One-third of former foster care youth live in households that are at or below the poverty level. This is three times the rate for the general population. The percentage of former foster care youth who report being homeless within one year of leaving foster care varies from over ten percent to almost twenty-five percent. By comparison, only one percent of the general population reports having been homeless at sometime during the past year. One in three former foster care youth lack health insurance, compared to less than one in five people in the general population. One in six former foster care youth receive cash public assistance. This is five times the rate of the general population.

(e) Approximately twenty-five percent of former foster care youth are incarcerated at sometime after leaving foster care. This is four times the rate of incarceration for the general population. Of the former foster care youth who "age out" of foster care, twenty-seven percent of the males and ten percent of the females are incarcerated within twelve to eighteen months of leaving foster care.

(f) Female former foster care youth become sexually active more than seven months earlier than their nonfoster care counterparts, have more sexual partners, and have a mean age of first pregnancy of almost two years earlier than their peers who were not in foster care.

(2) The legislature intends to create the passport to college promise pilot program. The pilot program will initially operate for a six-year period, and will have two primary components, as follows:

(a) Significantly increasing outreach to foster care youth between the ages of fourteen and eighteen regarding the higher education opportunities available to them, how to apply to college, and how to apply for and obtain financial aid; and

(b) Providing financial aid to former foster care youth to assist with the costs of their public undergraduate college education.

Sec. 12. RCW 28B.119.010 and 2011 1st sp.s. c 11 s 231 are each amended to read as follows:

The office of student financial assistance shall design the Washington promise scholarship program based on the following parameters:

(1) Scholarships shall be awarded to students graduating from public and approved private high schools under chapter 28A.195 RCW, students participating in home-based instruction as provided in chapter 28A.200 RCW, and persons twenty-one years of age or younger receiving a ~~((GED certificate))~~ high school equivalency certificate as provided in RCW 28B.50.536, who meet both an academic and a financial eligibility criteria.

(a) Academic eligibility criteria shall be defined as follows:

(i) Beginning with the graduating class of 2002, students graduating from public and approved private high schools under chapter 28A.195 RCW must be in the top fifteen percent of their graduating class, as identified by each respective high school at the completion of the first term of the student's senior year; or

(ii) Students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, students participating in home-based instruction as provided in chapter 28A.200 RCW, and persons twenty-one years of age or younger receiving a ~~((GED certificate))~~ high school equivalency certificate as provided in RCW 28B.50.536, must equal or exceed a cumulative scholastic assessment test I score of twelve hundred on their first attempt or must equal or exceed a composite American college test score of twenty-seven on their first attempt.

(b) To meet the financial eligibility criteria, a student's family income shall not exceed one hundred thirty-five percent of the state median family income adjusted for family size, as determined by the office of student financial assistance for each graduating class. Students not meeting the eligibility requirements for the first year of scholarship benefits may reapply for the second year of benefits, but must still meet the income standard set by the office for the student's graduating class.

(2) Promise scholarships are not intended to supplant any grant, scholarship, or tax program related to postsecondary education. If the office of student financial assistance finds that promise scholarships supplant or reduce any grant, scholarship, or tax program for categories of students, then the office shall adjust the financial eligibility criteria or the amount of scholarship to the level necessary to avoid supplanting.

(3) Within available funds, each qualifying student shall receive two consecutive annual awards, the value of each not to exceed the full-time annual resident tuition rates charged by Washington's community colleges. The office of student financial assistance shall award scholarships to as many students as possible from among those qualifying under this section.

(4) By October 15th of each year, the office of student financial assistance shall determine the award amount of the scholarships, after taking into consideration the availability of funds.

(5) The scholarships may only be used for undergraduate coursework at accredited institutions of higher education in the state of Washington.

(6) The scholarships may be used for undergraduate coursework at Oregon institutions of higher education that are part of the border county higher education opportunity project in RCW 28B.76.685 when those institutions offer

programs not available at accredited institutions of higher education in Washington state.

(7) The scholarships may be used for college-related expenses, including but not limited to, tuition, room and board, books, and materials.

(8) The scholarships may not be awarded to any student who is pursuing a degree in theology.

(9) The office of student financial assistance may establish satisfactory progress standards for the continued receipt of the promise scholarship.

(10) The office of student financial assistance shall establish the time frame within which the student must use the scholarship.

Sec. 13. RCW 28B.145.010 and 2011 1st sp.s. c 13 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 higher education coordinating board or its successor.

(2) "Eligible education programs" means high employer demand and other programs of study as determined by the opportunity scholarship board.

(3) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses as determined by the program administrator in consultation with the board and the state board for community and technical colleges.

(4) "Eligible student" means a resident student who received ~~((their))~~ his or her high school diploma or ~~((GED))~~ high school equivalency certificate as provided in RCW 28B.50.536 in Washington and who:

(a)(i) Has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree; or

(ii) Will attend a two-year institution of higher education and intends to transfer to an eligible education program at a four-year institution of higher education;

(b) Declares an intention to obtain a baccalaureate degree; and

(c) Has a family income at or below one hundred twenty-five percent of the state median family income at the time the student applies for an opportunity scholarship.

(5) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

(6) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

(7) "Program administrator" means a college scholarship organization that is a private nonprofit corporation registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code, with expertise in managing scholarships and college advising.

(8) "Resident student" has the same meaning as provided in RCW 28B.15.012.

Sec. 14. RCW 28B.145.060 and 2011 1st sp.s. c 13 s 7 are each amended to read as follows:

(1) The opportunity expansion program is established.

(2) The opportunity scholarship board shall select institutions of higher education to receive opportunity expansion awards. In so doing, the opportunity scholarship board must:

(a) Solicit, receive, and evaluate proposals from institutions of higher education that are designed to directly increase the number of baccalaureate degrees produced in high employer demand and other programs of study, and that include annual numerical targets for the number of such degrees, with a strong emphasis on serving students who received their high school diploma or ~~((GED))~~ high school equivalency certificate as provided in RCW 28B.50.536 in Washington or are adult Washington residents who are returning to school to gain a baccalaureate degree;

(b) Develop criteria for evaluating proposals and awarding funds to the proposals deemed most likely to increase the number of baccalaureate degrees and degrees produced in high employer demand and other programs of study;

(c) Give priority to proposals that include a partnership between public and private partnership entities that leverage additional private funds;

(d) Give priority to proposals that are innovative, efficient, and cost-effective, given the nature and cost of the particular program of study;

(e) Consult and operate in consultation with existing higher education stakeholders, including but not limited to: Faculty, labor, student organizations, and relevant higher education agencies; and

(f) Determine which proposals to improve and accelerate the production of baccalaureate degrees in high employer demand and other programs of study will receive opportunity expansion awards for the following state fiscal year, notify the state treasurer, and announce the awards.

(3) The state treasurer, at the direction of the opportunity scholarship board, must distribute the funds that have been awarded to the institutions of higher education from the opportunity expansion account.

(4) Institutions of higher education receiving awards under this section may not supplant existing general fund state revenues with opportunity expansion awards.

(5) Annually, the office of financial management shall report to the opportunity scholarship board, the governor, and the relevant committees of the legislature regarding the percentage of Washington households with incomes in the middle-income bracket or higher. For purposes of this section, "middle-income bracket" means household incomes between two hundred and five hundred percent of the 2010 federal poverty level, as determined by the United States department of health and human services for a family of four, adjusted annually for inflation.

(6) Annually, the ~~((higher education coordinating board))~~ student achievement council must report to the opportunity scholarship board, the governor, and the relevant committees of the legislature regarding the increase in the number of degrees in high employer demand and other programs of study awarded by institutions of higher education over the average of the preceding ten academic years.

(7) In its comprehensive plan, the workforce training and education coordinating board shall include specific strategies to reach the goal of increasing the percentage of Washington households living in the middle-income

bracket or higher, as calculated by the office of financial management and developed by the agency or education institution that will lead the strategy.

Sec. 15. RCW 28C.10.050 and 2007 c 462 s 2 are each amended to read as follows:

(1) The agency shall adopt by rule minimum standards for entities operating private vocational schools. The minimum standards shall include, but not be limited to, requirements to assess whether a private vocational school is eligible to obtain and maintain a license in this state.

(2) The requirements adopted by the agency shall, at a minimum, require a private vocational school to:

(a) Disclose to the agency information about its ownership and financial position and to demonstrate to the agency that the school is financially viable and responsible and that it has sufficient financial resources to fulfill its commitments to students. Financial disclosures provided to the agency shall not be subject to public disclosure under chapter 42.56 RCW;

(b) Follow a uniform statewide cancellation and refund policy as specified by the agency;

(c) Disclose through use of a school catalog, brochure, or other written material, necessary information to students so that students may make informed enrollment decisions. The agency shall specify what information is required;

(d) Use an enrollment contract or agreement that includes: (i) The school's cancellation and refund policy, (ii) a brief statement that the school is licensed under this chapter and that inquiries may be made to the agency, and (iii) other necessary information as determined by the agency;

(e) Describe accurately and completely in writing to students before their enrollment prerequisites and requirements for (i) completing successfully the programs of study in which they are interested and (ii) qualifying for the fields of employment for which their education is designed;

(f) Comply with the requirements of RCW 28C.10.084;

(g) Assess the basic skills and relevant aptitudes of each potential student to determine that a potential student has the basic skills and relevant aptitudes necessary to complete and benefit from the program in which the student plans to enroll, including but not limited to administering a United States department of education-approved English as a second language exam before enrolling students for whom English is a second language unless the students provide proof of graduation from a United States high school or proof of completion of a ((GED)) high school equivalency certificate as provided in RCW 28B.50.536 in English or results of another academic assessment determined appropriate by the agency. Guidelines for such assessments shall be developed by the agency, in consultation with the schools;

(h) Discuss with each potential student the potential student's obligations in signing any enrollment contract and/or incurring any debt for educational purposes. The discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given employment opportunities and average starting salaries in the potential student's chosen occupation;

(i) Ensure that any enrollment contract between the private vocational school and its students has an attachment in a format provided by the agency. The attachment shall be signed by both the school and the student. The

attachment shall stipulate that the school has complied with (h) of this subsection and that the student understands and accepts his or her responsibilities in signing any enrollment contract or debt application. The attachment shall also stipulate that the enrollment contract shall not be binding for at least five days, excluding Sundays and holidays, following signature of the enrollment contract by both parties; and

(j) Comply with the requirements related to qualifications of administrators and instructors.

(3) The agency may deny a private vocational school's application for licensure if the school fails to meet the requirements in this section.

(4) The agency may determine that a licensed private vocational school or a particular program of a private vocational school is at risk of closure or termination if:

(a) There is a pattern or history of substantiated student complaints filed with the agency pursuant to RCW 28C.10.120; or

(b) The private vocational school fails to meet minimum licensing requirements and has a pattern or history of failing to meet the minimum requirements.

(5) If the agency determines that a private vocational school or a particular program is at risk of closure or termination, the agency shall require the school to take corrective action.

Sec. 16. RCW 28C.18.010 and 2009 c 151 s 5 are each reenacted and amended to read as follows:

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

(1) "Adult basic education" means instruction designed to achieve mastery of skills in reading, writing, oral communication, and computation at a level sufficient to allow the individual to function effectively as a parent, worker, and citizen in the United States, commensurate with that individual's actual ability level, and includes English as a second language and preparation and testing services for ~~((the general education development exam))~~ a high school equivalency certificate as provided in RCW 28B.50.536.

(2) "Board" means the workforce training and education coordinating board.

(3) "Director" means the director of the workforce training and education coordinating board.

(4) "Industry skill panel" means a regional partnership of business, labor, and education leaders that identifies skill gaps in a key economic cluster and enables the industry and public partners to respond to and be proactive in addressing workforce skill needs.

(5) "Training system" means programs and courses of secondary vocational education, technical college programs and courses, community college vocational programs and courses, private career school and college programs and courses, employer-sponsored training, adult basic education programs and courses, programs and courses funded by the federal workforce investment act, programs and courses funded by the federal vocational act, programs and courses funded under the federal adult education act, publicly funded programs and courses for adult literacy education, and apprenticeships, and programs and courses offered by private and public nonprofit organizations that are

representative of communities or significant segments of communities and provide job training or adult literacy services.

(6) "Vocational education" means organized educational programs offering a sequence of courses which are directly related to the preparation or retraining of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education.

(7) "Workforce development council" means a local workforce investment board as established in P.L. 105-220 Sec. 117.

(8) "Workforce skills" means skills developed through applied learning that strengthen and reinforce an individual's academic knowledge, critical thinking, problem solving, and work ethic and, thereby, develop the employability, occupational skills, and management of home and work responsibilities necessary for economic independence.

Sec. 17. RCW 35.21.333 and 1987 c 339 s 4 are each amended to read as follows:

(1) A person seeking appointment to the office of chief of police or marshal, of a city or town, including a code city, with a population in excess of one thousand, is ineligible unless that person:

(a) Is a citizen of the United States of America;

(b) Has obtained a high school diploma or ~~((general equivalency diploma))~~ high school equivalency certificate as provided in RCW 28B.50.536;

(c) Has not been convicted under the laws of this state, another state, or the United States of a felony;

(d) Has not been convicted of a gross misdemeanor or any crime involving moral turpitude within five years of the date of application;

(e) Has received at least a general discharge under honorable conditions from any branch of the armed services for any military service if the person was in the military service;

(f) Has completed at least two years of regular, uninterrupted, full-time commissioned law enforcement employment involving enforcement responsibilities with a government law enforcement agency; and

(g) The person has been certified as a regular and commissioned enforcement officer through compliance with this state's basic training requirement or equivalency.

(2) A person seeking appointment to the office of chief of police or marshal, of a city or town, including a code city, with a population of one thousand or less, is ineligible unless that person conforms with the requirements of subsection (1) (a) through (e) of this section. A person so appointed as chief of police or marshal must successfully complete the state's basic training requirement or equivalency within nine months after such appointment, unless an extension has been granted by the criminal justice training commission.

(3) A person seeking appointment to the office of chief of police or marshal shall provide a sworn statement under penalty of perjury to the appointing authority stating that the person meets the requirements of this section.

Sec. 18. RCW 36.110.140 and 1993 c 285 s 14 are each amended to read as follows:

To the extent possible, jail industries programs shall be augmented by education and training to improve worker literacy and employability skills. Such education and training may include, but is not limited to, basic adult education, work towards ~~((a certificate of educational competence following successful completion of the general educational development test))~~ earning a high school equivalency certificate as provided in RCW 28B.50.536, vocational and preemployment work maturity skills training, and apprenticeship classes.

Sec. 19. RCW 41.04.015 and 1971 c 43 s 1 are each amended to read as follows:

A Washington ~~((certificate of educational competence))~~ high school equivalency certificate as awarded by the Washington state superintendent of public instruction or ~~((an official report of equivalent acceptable scores of the general educational development test))~~ a high school equivalency certificate as provided in RCW 28B.50.536 shall be accepted in lieu of a high school diploma by the state and any local political subdivision when considering applicants for employment or promotion.

Sec. 20. RCW 43.215.510 and 2006 c 265 s 206 are each amended to read as follows:

Child care centers adopting the child care career and wage ladder established pursuant to RCW 43.215.505 shall increase wages for child care workers who have earned a high school diploma or ~~((GED certificate))~~ high school equivalency certificate as provided in RCW 28B.50.536, gain additional years of experience, or accept increasing levels of responsibility in providing child care, in accordance with the child care career and wage ladder. The adoption of a child care career and wage ladder shall not prohibit the provision of wage increases based upon merit. The department shall pay wage increments for child care workers employed by child care centers adopting the child care career and wage ladder established pursuant to RCW 43.215.505 who earn early childhood education credits or meet relevant requirements in the state training and registry system, in accordance with the child care career and wage ladder.

Sec. 21. RCW 70.128.120 and 2012 c 164 s 703 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 ~~((general educational development (GED) certificate))~~ 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.

Sec. 22. RCW 72.09.015 and 2011 1st sp.s. c 21 s 38 and 2011 c 282 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and

testing services for obtaining a high school diploma or a ~~((general equivalency diploma))~~ high school equivalency certificate as provided in RCW 28B.50.536.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Civil judgment for assault" means a civil judgment for monetary damages awarded to a correctional officer or department employee entered by a court of competent jurisdiction against an inmate that is based on, or arises from, injury to the correctional officer or department employee caused by the inmate while the correctional officer or department employee was acting in the course and scope of his or her employment.

(4) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

(5) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

(6) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

(7) "County" means a county or combination of counties.

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

(9) "Earned early release" means earned release as authorized by RCW 9.94A.729.

(10) "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 in reducing recidivism for the population.

(11) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

(12) "Good conduct" means compliance with department rules and policies.

(13) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

(14) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

(15) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

(16) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offender's risks and needs. The individual reentry plan describes actions that should occur to prepare

individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

(17) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

(18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

(19) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

(20) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

(21) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

(22) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(23) "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.

(24) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

(25) "Secretary" means the secretary of corrections or his or her designee.

(26) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits

provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

(27) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

(28) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

(29) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the department of corrections shall review and quantify any expenses unique to operating a for-profit business inside a prison.

(30) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

(31) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

(32) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

Sec. 23. RCW 72.09.410 and 1993 c 338 s 3 are each amended to read as follows:

The department of corrections shall establish one work ethic camp. The secretary shall locate the work ethic camp within an already existing department compound or facility, or in a facility that is scheduled to come on line within the initial implementation date outlined in this section. The facility selected for the camp shall appropriately accommodate the logistical and cost-effective objectives contained in RCW 72.09.400 through 72.09.420, 9.94A.690, and section 5, chapter 338, Laws of 1993. The department shall be ready to assign inmates to the camp one hundred twenty days after July 1, 1993. The department shall establish the work ethic camp program cycle to last from one hundred twenty to one hundred eighty days. The department shall develop all aspects of the work ethic camp program including, but not limited to, program standards, conduct standards, educational components including (~~general education development test achievement~~) preparation for a high school equivalency certificate as described in RCW 28B.50.536, offender incentives, drug rehabilitation program parameters, individual and team work goals, techniques for improving the offender's self-esteem, citizenship skills for successful living in the community, measures to hold the offender accountable for his or her behavior, and the successful completion of the work ethic camp program granted to the offender based on successful attendance, participation, and performance as defined by the secretary. The work ethic camp shall be designed and implemented so that offenders are continually engaged in meaningful activities and unstructured time is kept to a minimum. In addition,

the department is encouraged to explore the integration and overlay of a military style approach to the work ethic camp.

Sec. 24. RCW 72.09.460 and 2007 c 483 s 402 are each amended to read as follows:

(1) The legislature intends that all inmates be required to participate in department-approved education programs, work programs, or both, unless exempted as specifically provided in this section. Eligible inmates who refuse to participate in available education or work programs available at no charge to the inmates shall lose privileges according to the system established under RCW 72.09.130. Eligible inmates who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(2) The legislature recognizes more inmates may agree to participate in education and work programs than are available. The department must make every effort to achieve maximum public benefit by placing inmates in available and appropriate education and work programs.

(3)(a) The department shall, to the extent possible and considering all available funds, prioritize its resources to meet the following goals for inmates in the order listed:

(i) Achievement of basic academic skills through obtaining a high school diploma or ~~(its equivalent)~~ a high school equivalency certificate as provided in RCW 28B.50.536;

(ii) Achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release;

(iii) Additional work and education programs necessary for compliance with an offender's individual reentry plan under RCW 72.09.270 with the exception of postsecondary education degree programs as provided in RCW 72.09.465; and

(iv) Other appropriate vocational, work, or education programs that are not necessary for compliance with an offender's individual reentry plan under RCW 72.09.270 with the exception of postsecondary education degree programs as provided in RCW 72.09.465.

(b) If programming is provided pursuant to (a)(i) through (iii) of this subsection, the department shall pay the cost of such programming, including but not limited to books, materials, supplies, and postage costs related to correspondence courses.

(c) If programming is provided pursuant to (a)(iv) of this subsection, inmates shall be required to pay all or a portion of the costs, including books, fees, and tuition, for participation in any vocational, work, or education program as provided in department policies. Department policies shall include a formula for determining how much an offender shall be required to pay. The formula shall include steps which correlate to an offender average monthly income or average available balance in a personal inmate savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary costs. The formula shall be reviewed every two years. A third party may pay directly to the department all or a portion of costs and tuition for any programming provided pursuant to (a)(iv) of this subsection on behalf of an inmate. Such payments shall not be subject to any of the deductions as provided in this chapter.

(d) The department may accept any and all donations and grants of money, equipment, supplies, materials, and services from any third party, including but not limited to nonprofit entities, and may receive, utilize, and dispose of same to complete the purposes of this section.

(e) Any funds collected by the department under (c) and (d) of this subsection and subsections (8) and (9) of this section shall be used solely for the creation, maintenance, or expansion of inmate educational and vocational programs.

(4) The department shall provide access to a program of education to all offenders who are under the age of eighteen and who have not met high school graduation (~~or general equivalency diploma~~) requirements or requirements to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with chapter 28A.193 RCW. The program of education established by the department and education provider under RCW 28A.193.020 for offenders under the age of eighteen must provide each offender a choice of curriculum that will assist the inmate in achieving a high school diploma (~~or general equivalency diploma~~) or high school equivalency certificate. The program of education may include but not be limited to basic education, prevocational training, work ethic skills, conflict resolution counseling, substance abuse intervention, and anger management counseling. The curriculum may balance these and other rehabilitation, work, and training components.

(5)(a) In addition to the policies set forth in this section, the department shall consider the following factors in establishing criteria for assessing the inclusion of education and work programs in an inmate's individual reentry plan and in placing inmates in education and work programs:

(i) An inmate's release date and custody level. An inmate shall not be precluded from participating in an education or work program solely on the basis of his or her release date, except that inmates with a release date of more than one hundred twenty months in the future shall not comprise more than ten percent of inmates participating in a new class I correctional industry not in existence on June 10, 2004;

(ii) An inmate's education history and basic academic skills;

(iii) An inmate's work history and vocational or work skills;

(iv) An inmate's economic circumstances, including but not limited to an inmate's family support obligations; and

(v) Where applicable, an inmate's prior performance in department-approved education or work programs;

(b) The department shall establish, and periodically review, inmate behavior standards and program goals for all education and work programs. Inmates shall be notified of applicable behavior standards and program goals prior to placement in an education or work program and shall be removed from the education or work program if they consistently fail to meet the standards or goals.

(6) Eligible inmates who refuse to participate in available education or work programs available at no charge to the inmates shall lose privileges according to the system established under RCW 72.09.130. Eligible inmates who are required to contribute financially to an education or work program and refuse to

contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(7) The department shall establish, by rule, objective medical standards to determine when an inmate is physically or mentally unable to participate in available education or work programs. When the department determines an inmate is permanently unable to participate in any available education or work program due to a health condition, the inmate is exempt from the requirement under subsection (1) of this section. When the department determines an inmate is temporarily unable to participate in an education or work program due to a medical condition, the inmate is exempt from the requirement of subsection (1) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all inmates with temporary disabilities to ensure the earliest possible entry or reentry by inmates into available programming.

(8) The department shall establish policies requiring an offender to pay all or a portion of the costs and tuition for any vocational training or postsecondary education program if the offender previously abandoned coursework related to education or vocational training without excuse as defined in rule by the department. Department policies shall include a formula for determining how much an offender shall be required to pay. The formula shall include steps which correlate to an offender average monthly income or average available balance in a personal inmate savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary costs. The formula shall be reviewed every two years. A third party may pay directly to the department all or a portion of costs and tuition for any program on behalf of an inmate under this subsection. Such payments shall not be subject to any of the deductions as provided in this chapter.

(9) Notwithstanding any other provision in this section, an inmate sentenced to life without the possibility of release, sentenced to death under chapter 10.95 RCW, or subject to the provisions of 8 U.S.C. Sec. 1227:

(a) Shall not be required to participate in education programming except as may be necessary for the maintenance of discipline and security;

(b) May receive not more than one postsecondary academic degree in a program offered by the department or its contracted providers;

(c) May participate in prevocational or vocational training that may be necessary to participate in a work program;

(d) Shall be subject to the applicable provisions of this chapter relating to inmate financial responsibility for programming.

Sec. 25. RCW 72.09.670 and 2008 c 276 s 601 are each amended to read as follows:

(1) The department shall study and establish best practices to reduce gang involvement and recruitment among incarcerated offenders. The department shall study and make recommendations regarding the establishment of:

(a) Intervention programs within the institutions of the department for offenders who are seeking to opt out of gangs. The intervention programs shall include, but are not limited to, tattoo removal, anger management, ((GED)) preparation to obtain a high school equivalency certificate as described in RCW 28B.50.536, and other interventions; and

(b) An intervention program to assist gang members with successful reentry into the community.

(2) The department shall report to the legislature on its findings and recommendations by January 1, 2009.

Sec. 26. RCW 74.04.535 and 2010 1st sp.s. c 8 s 3 are each amended to read as follows:

(1) The department, the employment security department, and the state board for community and technical colleges shall work in partnership to expand the food stamp employment and training program. Subject to federal approval, the program shall be expanded to three additional community colleges or other community-based locations in 2010 and shall expand capacity at participating colleges. To the greatest extent possible, expansion shall be geographically diverse. The agencies shall:

(a) Identify and seek out partnerships with community-based organizations that can provide support services and case management to participants through performance-based contracts in the food stamp employment and training program, and do not replace the positions or work of department employees;

(b) Identify eligible nonfederal matching funds to draw down the federal match for food stamp employment and training services. Matching funds may include: Local funds, foundation grants, employer-paid costs, and the state allocation to community and technical colleges.

(2) Employment and training funds may be allocated for: Educational programs to develop skills for employability, vocational education, English as a second language courses, adult basic education, ((GED)) courses to assist persons to obtain a high school equivalency certificate as described in RCW 28B.50.536, remedial programs, job readiness training, case management, intake, assessment, evaluation, and barrier removal and support services such as tuition, books, child care, transportation, housing, and counseling services.

(3) The department shall annually track and report outcomes including those achieved through performance-based contracts as follows: Federal funding received, the number of participants served, achievement points, the number of participants who enter employment during or after participation in the food stamp employment and training program, and the average wage of jobs attained. The report shall be submitted to the governor and appropriate committees of the legislature on November 1st of each year, beginning in 2010.

(4) For purposes of this section, "food stamp employment and training program" refers to a program established and administered through the employment security department and the department of social and health services.

Sec. 27. RCW 74.08A.250 and 2011 1st sp.s. c 42 s 8 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter, "work activity" means:

(1) Unsubsidized paid employment in the private or public sector;

(2) Subsidized paid employment in the private or public sector, including employment through the state or federal work-study program for a period not to exceed twenty-four months;

(3) Work experience, including:

(a) An internship or practicum, that is paid or unpaid and is required to complete a course of vocational training or to obtain a license or certificate in a high-demand occupation, as determined by the employment security department. No internship or practicum shall exceed twelve months; or

(b) Work associated with the refurbishing of publicly assisted housing, if sufficient paid employment is not available;

(4) On-the-job training;

(5) Job search and job readiness assistance;

(6) Community service programs, including a recipient's voluntary service at a child care or preschool facility licensed under chapter 43.215 RCW or an elementary school in which his or her child is enrolled;

(7) Vocational educational training, not to exceed twelve months with respect to any individual;

(8) Job skills training directly related to employment;

(9) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a ((~~GED~~)) high school equivalency certificate as provided in RCW 28B.50.536;

(10) Satisfactory attendance at secondary school or in a course of study leading to a ((~~GED~~)) high school equivalency certificate as provided in RCW 28B.50.536, in the case of a recipient who has not completed secondary school or received such a certificate;

(11) The provision of child care services to an individual who is participating in a community service program;

(12) Internships, that shall be paid or unpaid work experience performed by an intern in a business, industry, or government or nongovernmental agency setting;

(13) Practicums, which include any educational program in which a student is working under the close supervision of a professional in an agency, clinic, or other professional practice setting for purposes of advancing their skills and knowledge;

(14) Services required by the recipient under RCW 74.08.025(3) and 74.08A.010(4) to become employable;

(15) Financial literacy activities designed to be effective in assisting a recipient in becoming self-sufficient and financially stable; and

(16) Parent education services or programs that support development of appropriate parenting skills, life skills, and employment-related competencies.

Sec. 28. RCW 74.08A.380 and 1997 c 58 s 503 are each amended to read as follows:

All applicants under the age of eighteen years who are approved for assistance and, within one hundred eighty days after the date of federal certification of the Washington temporary assistance for needy families program, all unmarried minor parents or pregnant minor applicants shall, as a condition of receiving benefits, actively progress toward the completion of a high school diploma or a ((~~GED~~)) high school equivalency certificate as provided in RCW 28B.50.536.

Sec. 29. RCW 74.12.035 and 1999 c 120 s 2 are each amended to read as follows:

(1) Children over eighteen years of age and under nineteen years of age who are full-time students reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before reaching nineteen years of age are eligible to receive temporary assistance for needy families: PROVIDED HOWEVER, That if such students do not successfully complete such program before reaching nineteen years of age, the assistance rendered under this subsection during such period shall not be a debt due the state.

(2) Children with disabilities who are eighteen years of age and under twenty-one years of age and who are full-time students whose education is being provided in accordance with RCW 28A.155.020 are eligible to receive temporary assistance for needy families benefits.

(3) The department is authorized to grant exceptions to the eligibility restrictions for children eighteen years of age and under twenty-one years of age under subsections (1) and (2) of this section only when it determines by reasonable, objective criteria that such exceptions are likely to enable the children to complete their high school education, (~~general equivalency diploma~~) high school equivalency certificate as provided in RCW 28B.50.536, or vocational education.

Sec. 30. RCW 74.13.540 and 2001 c 192 s 2 are each amended to read as follows:

Independent living services include assistance in achieving basic educational requirements such as a (~~GED~~) high school equivalency certificate as provided in RCW 28B.50.536, enrollment in vocational and technical training programs offered at the community and vocational colleges, and obtaining and maintaining employment; and accomplishing basic life skills such as money management, nutrition, preparing meals, and cleaning house. A baseline skill level in ability to function productively and independently shall be determined at entry. Performance shall be measured and must demonstrate improvement from involvement in the program. Each recipient shall have a plan for achieving independent living skills by the time the recipient reaches age twenty-one. The plan shall be written within the first thirty days of placement and reviewed every ninety days. A recipient who fails to consistently adhere to the elements of the plan shall be subject to reassessment by the professional staff of the program and may be declared ineligible to receive services.

Sec. 31. RCW 74.15.230 and 1999 c 267 s 13 are each amended to read as follows:

The secretary shall establish responsible living skills programs that provide no more than seventy-five beds across the state and may establish responsible living skills programs by contract, within funds appropriated by the legislature specifically for this purpose. Responsible living skills programs shall have the following:

- (1) A license issued by the secretary;
- (2) A professional with a master's degree in counseling, social work, or related field and at least one year of experience working with street youth available to serve residents or a bachelor of arts degree in social work or a related field and five years of experience working with street youth. The professional shall provide counseling services and interface with other relevant

resources and systems to prepare the minor for adult living. Preference shall be given to those professionals cross-credentialed in mental health and chemical dependency;

(3) Staff trained in development needs of older adolescents eligible to participate in responsible living skills programs as determined by the secretary;

(4) Transitional living services and a therapeutic model of service delivery that provides necessary program supervision of residents and at the same time includes a philosophy, program structure, and treatment planning that emphasizes achievement of competency in independent living skills. Independent living skills include achieving basic educational requirements such as a ((GED)) high school equivalency certificate as provided in RCW 28B.50.536, enrollment in vocational and technical training programs offered at the community and vocational colleges, obtaining and maintaining employment; accomplishing basic life skills such as money management, nutrition, preparing meals, and cleaning house. A baseline skill level in ability to function productively and independently shall be determined at entry. Performance shall be measured and must demonstrate improvement from involvement in the program. Each resident shall have a plan for achieving independent living skills by the time the resident leaves the placement. The plan shall be written within the first thirty days of placement and reviewed every ninety days. A resident who fails to consistently adhere to the elements of the plan shall be subject to reassessment by the professional staff of the program and may be placed outside the program; and

(5) A data collection system that measures outcomes for the population served, and enables research and evaluation that can be used for future program development and service delivery. Data collection systems must have confidentiality rules and protocols developed by the secretary.

(6) The department shall not award contracts for the operation of responsible living skills programs until HOPE center beds are operational.

Passed by the House March 8, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 40

[House Bill 1770]

COMMODITY BOARDS—APPOINTMENTS

AN ACT Relating to the appointment of nonvoting advisory members to commodity boards; and adding a new section to chapter 15.65 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 15.65 RCW to read as follows:

(1) A commodity board may appoint up to two nonvoting advisory members to the board who have expertise in marketing, operations, or other topics relevant to the work of the board. The term of office for each nonvoting advisory member must be established in each board's marketing order or

agreement, but may not exceed three years. Nonvoting advisory members may serve additional consecutive terms of office if reappointed by the board.

(2) Nonvoting advisory members do not count toward establishing a quorum of the board.

(3) Nonvoting advisory members must be compensated in the same manner as board members under RCW 15.65.270(4).

Passed by the House March 4, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 41

[House Bill 1790]

TRAFFIC SCHOOLS—MUNICIPALITIES—FEES

AN ACT Relating to the use of traffic school fees; and amending RCW 46.83.070.

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

Sec. 1. RCW 46.83.070 and 2011 c 197 s 1 are each amended to read as follows:

(1) A traffic school established by a city, town, or county under this chapter that collects fees for the cost of attending the traffic school may use any fees collected that are in excess of the costs of the traffic school for the following activities:

- (a) Safe driver education materials and programs;
- (b) Safe driver education promotions and advertising; or
- (c) Costs associated with the training of law enforcement officers.

(2) This section does not authorize a city, town, or county to increase or impose new fees for traffic schools solely for the uses authorized in subsection (1) of this section.

(3) This section is not intended, and may not be construed, to reduce, increase, or otherwise impact funding for judicial programs, functions, or services.

(4) The fees collected by a traffic school in excess of the costs of the traffic school must be used only for the activities listed in subsection (1) of this section and are not subject to indirect costs or to be used to supplement any other costs of a city, town, or county not specifically described in this section.

Passed by the House March 8, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 42

[Substitute House Bill 1806]

VETERANS' ASSISTANCE PROGRAMS—DEFINITION OF VETERAN

AN ACT Relating to the definition of veteran for purposes of veterans' assistance programs; and amending RCW 41.04.007 and 73.08.005.

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

Sec. 1. RCW 41.04.007 and 2010 c 161 s 1105 are each amended to read as follows:

"Veteran" includes every person, who at the time he or she seeks the benefits of RCW 46.18.212, 46.18.235, 72.36.030, 41.04.010, 73.04.090, (~~73.08.010, 73.08.070, 73.08.080,~~) or 43.180.250 has received an honorable discharge or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the following capacities:

(1) As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled his or her initial military service obligation;

(2) As a member of the women's air forces service pilots;

(3) As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days;

(4) As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946;

(5) As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or

(6) A United States documented merchant mariner with service aboard an oceangoing vessel operated by the department of defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation.

Sec. 2. RCW 73.08.005 and 2011 1st sp.s. c 36 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) "Direct costs" includes those allowable costs that can be readily assigned to the statutory objectives of this chapter, consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(2) "Family" means the spouse or domestic partner, surviving spouse, surviving domestic partner, and dependent children of a living or deceased veteran.

(3) "Indigent" means a person who is defined as such by the county legislative authority using one or more of the following definitions:

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

(b) Receiving an annual income, after taxes, of up to one hundred fifty percent or less of the current federally established poverty level, or receiving an annual income not exceeding a higher qualifying income established by the county legislative authority; or

(c) Unable to pay reasonable costs for shelter, food, utilities, and transportation because his or her available funds are insufficient.

(4) "Indirect costs" includes those allowable costs that are generally associated with carrying out the statutory objectives of this chapter, but the identification and tracking of those costs cannot be readily assigned to a specific statutory objective without an accounting effort that is disproportionate to the benefit received. A county legislative authority may allocate allowable indirect costs to its veterans' assistance fund if it is accomplished in a manner consistent with the cost principles promulgated by the federal office of management and budget in circular No. A-87, dated May 10, 2004.

(5) "Veteran" has the same meaning as defined in RCW 41.04.005 and 41.04.007, and ~~((includes a current member of the national guard or armed forces reserves who has been deployed to serve in an armed conflict))~~ in addition may include, at the discretion of the county legislative authority and in consultation with the veterans' advisory board, any other person who at the time he or she seeks the benefits of RCW 73.08.010, 73.08.070, and 73.08.080:

(a) Has received a general discharge under honorable conditions; or

(b) Has received a medical or physical discharge with an honorable record.

(6) "Veterans' advisory board" means a board established by a county legislative authority under the authority of RCW 73.08.035.

(7) "Veterans' assistance fund" means an account in the custody of the county auditor, or the chief financial officer in a county operating under a charter, that is funded by taxes levied under the authority of RCW 73.08.080.

(8) "Veterans' assistance program" means a program approved by the county legislative authority under the authority of RCW 73.08.010 that is fully or partially funded by the veterans' assistance fund authorized by RCW 73.08.080.

Passed by the House March 4, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 43

[Substitute House Bill 1836]

CORRECTIONS—SECURE FACILITIES—CONTRABAND

AN ACT Relating to introduction of contraband into or possession of contraband in a secure facility; amending RCW 71.09.800, 9A.76.140, 9A.76.150, and 9A.76.160; reenacting and amending RCW 9A.76.010; and prescribing penalties.

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

Sec. 1. RCW 9A.76.010 and 2009 c 549 s 1003 are each reenacted and amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility or a secure facility under chapter 71.09 RCW is prohibited from obtaining or possessing by statute, rule, regulation, or order of a court;

(2) "Custody" means restraint pursuant to a lawful arrest or an order of a court, or any period of service on a work crew: PROVIDED, That custody pursuant to chapter 13.34 RCW and RCW 74.13.020 and 74.13.031 and chapter 13.32A RCW shall not be deemed custody for purposes of this chapter;

(3) "Detention facility" means any place used for the confinement of a person (a) arrested for, charged with or convicted of an offense, or (b) charged with being or adjudicated to be a juvenile offender as defined in RCW 13.40.020 as now existing or hereafter amended, or (c) held for extradition or as a material witness, or (d) otherwise confined pursuant to an order of a court, except an order under chapter 13.34 RCW or chapter 13.32A RCW, or (e) in any work release, furlough, or other such facility or program;

(4) "Uncontrollable circumstances" means an act of nature such as a flood, earthquake, or fire, or a medical condition that requires immediate hospitalization or treatment, or an act of a human being such as an automobile accident or threats of death, forcible sexual attack, or substantial bodily injury in the immediate future for which there is no time for a complaint to the authorities and no time or opportunity to resort to the courts.

Sec. 2. RCW 71.09.800 and 2000 c 44 s 1 are each amended to read as follows:

The secretary shall adopt rules under the administrative procedure act, chapter 34.05 RCW, for the oversight and operation of the program established pursuant to this chapter. Such rules shall include provisions for an annual inspection of the special commitment center; ~~((and))~~ requirements for treatment plans and the retention of records; and guidelines for attorneys to follow when bringing legal materials into secure facilities. Guidelines for attorneys shall not interfere with attorney-client privilege.

Sec. 3. RCW 9A.76.140 and 2011 c 336 s 404 are each amended to read as follows:

(1) A person is guilty of introducing contraband in the first degree if he or she knowingly provides any deadly weapon to any person confined in a detention facility or secure facility under chapter 71.09 RCW.

(2) Introducing contraband in the first degree is a class B felony.

Sec. 4. RCW 9A.76.150 and 2011 c 336 s 405 are each amended to read as follows:

(1) A person is guilty of introducing contraband in the second degree if he or she knowingly and unlawfully provides contraband to any person confined in a detention facility or secure facility under chapter 71.09 RCW with the intent that such contraband be of assistance in an escape or in the commission of a crime.

(2) Introducing contraband in the second degree is a class C felony.

Sec. 5. RCW 9A.76.160 and 2011 c 336 s 406 are each amended to read as follows:

(1) A person is guilty of introducing contraband in the third degree if he or she knowingly and unlawfully provides contraband to any person confined in a detention facility or secure facility under chapter 71.09 RCW.

(2)(a) This section does not apply to an attorney representing a client confined in a secure facility under chapter 71.09 RCW for the purposes of bringing discovery or other legal materials to assist the client in the civil commitment process under chapter 71.09 RCW; PROVIDED, That:

(i) The attorney must be present when the materials are being reviewed or handled by the client; and

(ii) The attorney must take the materials and any and all copies of the materials when leaving the secure facility.

(3) Introducing contraband in the third degree is a misdemeanor.

Passed by the House March 12, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 44

[House Bill 1860]

SUNSET REVIEW PROCESS

AN ACT Relating to continuing the use of the legislature's sunset review process; amending RCW 43.131.900; 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 sunset review process allows the legislature to evaluate the need for the continued existence of agencies and programs, to assess the effectiveness and performance of these agencies and programs, and to ensure public accountability. It is the intent of the legislature to continue using this important accountability tool.

Sec. 2. RCW 43.131.900 and 2000 c 189 s 12 are each amended to read as follows:

RCW 43.131.010 through 43.131.150 (~~shall~~) expire (~~on~~) June 30, (~~2015~~) 2025, unless extended by law for an additional fixed period of time.

Passed by the House March 5, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 45

[Substitute House Bill 1886]

DEPARTMENT OF AGRICULTURE—COST RECOVERY

AN ACT Relating to the recoverable costs of the department of agriculture under chapter 16.36 RCW; and amending RCW 16.36.025.

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

Sec. 1. RCW 16.36.025 and 2011 c 204 s 1 are each amended to read as follows:

(1) The director may collect moneys to recover the reasonable costs of purchasing, printing, and distributing official individual identification devices or methods, regulatory forms, and other supplies.

(2) In addition to the costs identified in subsection (1) of this section, the director may also collect moneys to recover the reasonable costs associated with the data entry and processing related to animal health documents that facilitate disease control and traceability.

(3) All funds received under this section must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230 to cover the costs associated with this chapter.

Passed by the House March 6, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 46

[Substitute House Bill 1889]

AGRICULTURE—FRUIT AND VEGETABLE DISTRICT FUND

AN ACT Relating to the fruit and vegetable district fund; amending RCW 15.17.247; providing an effective date; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 15.17.247 and 2009 c 208 s 1 are each amended to read as follows:

(1) The district manager for district two as defined in WAC 16-390-010 is authorized to transfer one hundred fifty thousand dollars from the fruit and vegetable district fund to the plant pest account within the agricultural local fund. The amount transferred is to be derived from fees collected for state inspections of tree fruits and is to be used solely for activities related to the control of *Rhagoletis pomonella* in district two. The transfer of money must occur by September 1, 2009. ~~((On June 30, 2013, any unexpended portion of the one hundred fifty thousand dollars must be transferred to the fruit and vegetable inspection account and deposited in the district account for the district that includes Yakima county.))~~

(2) In addition to the transfer identified in subsection (1) of this section, the district manager for district two as defined in WAC 16-390-010 is authorized to transfer an additional one hundred fifty thousand dollars from the fruit and vegetable district fund to the plant pest account within the agricultural local fund for the same purposes identified in subsection (1) of this section. The transfer of money must occur by September 1, 2013.

(3) This section expires July 1, ((2013)) 2020.

NEW SECTION. Sec. 2. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2013.

Passed by the House March 6, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 47

[House Bill 1937]

TOBACCO PRODUCTS—VAPOR PRODUCTS—MINORS

AN ACT Relating to prohibiting a person from selling or giving a vapor product designed solely for smoking or ingesting tobacco to a minor; and amending RCW 26.28.080.

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

Sec. 1. RCW 26.28.080 and 1994 sp.s. c 7 s 437 are each amended to read as follows:

(1) Every person who sells or gives, or permits to be sold or given, to any person under the age of eighteen years any cigar, cigarette, cigarette paper or wrapper, ~~((or))~~ tobacco in any form, or a vapor product is guilty of a gross misdemeanor.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) For the purposes of this section, "vapor product" means a noncombustible tobacco-derived product containing nicotine that employs a mechanical heating element, battery, or circuit, regardless of shape or size, that can be used to heat a liquid nicotine solution contained in cartridges. Vapor product does not include any product that is regulated by the United States food and drug administration under chapter V of the federal food, drug, and cosmetic act.

Passed by the House March 5, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 48

[Substitute Senate Bill 5316]

CHILD ABUSE OR NEGLECT—K-12 SCHOOLS—INTERVIEWS

AN ACT Relating to adopting a model policy to require a third person to be present during interviews; amending RCW 26.44.030; reenacting and amending RCW 26.44.030; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 26.44.030 and 2012 c 55 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has

suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12)(a) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

~~((a))~~ (i) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the

interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

~~((b))~~ (ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(b) The Washington state school directors' association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

(13) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

(14) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(15) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(16) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(17) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(18) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

Sec. 2. RCW 26.44.030 and 2012 c 259 s 3 and 2012 c 55 s 1 are each reenacted and amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison

specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.

(f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.

(g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases

currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) Upon receiving a report of alleged abuse or neglect, the department shall use one of the following discrete responses to reports of child abuse or neglect that are screened in and accepted for departmental response:

(i) Investigation; or

(ii) Family assessment.

(b) In making the response in (a) of this subsection the department shall:

(i) Use a method by which to assign cases to investigation or family assessment which are based on an array of factors that may include the presence of: Imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics, such as the type of alleged maltreatment and the age of the alleged victim. Age of the alleged victim shall not be used as the sole criterion for determining case assignment;

(ii) Allow for a change in response assignment based on new information that alters risk or safety level;

(iii) Allow families assigned to family assessment to choose to receive an investigation rather than a family assessment;

(iv) Provide a full investigation if a family refuses the initial family assessment;

(v) Provide voluntary services to families based on the results of the initial family assessment. If a family refuses voluntary services, and the department cannot identify specific facts related to risk or safety that warrant assignment to investigation under this chapter, and there is not a history of reports of child abuse or neglect related to the family, then the department must close the family assessment response case. However, if at any time the department identifies risk or safety factors that warrant an investigation under this chapter, then the family assessment response case must be reassigned to investigation;

(vi) Conduct an investigation, and not a family assessment, in response to an allegation that, the department determines based on the intake assessment:

(A) Poses a risk of "imminent harm" consistent with the definition provided in RCW 13.34.050, which includes, but is not limited to, sexual abuse and sexual exploitation as defined in this chapter;

(B) Poses a serious threat of substantial harm to a child;

(C) Constitutes conduct involving a criminal offense that has, or is about to occur, in which the child is the victim;

(D) The child is an abandoned child as defined in RCW 13.34.030;

(E) The child is an adjudicated dependent child as defined in RCW 13.34.030, or the child is in a facility that is licensed, operated, or certified for care of children by the department under chapter 74.15 RCW, or by the department of early learning.

(c) The department may not be held civilly liable for the decision to respond to an allegation of child abuse or neglect by using the family assessment response under this section unless the state or its officers, agents, or employees acted with reckless disregard.

(12)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(13) For reports of alleged abuse or neglect that are responded to through family assessment response, the department shall:

(a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;

(b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;

(c) Complete the family assessment response within forty-five days of receiving the report; however, upon parental agreement, the family assessment response period may be extended up to ninety days;

(d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;

(e) Implement the family assessment response in a consistent and cooperative manner;

(f) Have the parent or guardian sign an agreement to participate in services before services are initiated that informs the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not sign the consent form.

(14)(a) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

((+)) (i) May interview children. If the department determines that the response to the allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

((+)) (ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(b) The Washington state school directors' association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

(15) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

(16) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(17)(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(18) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor.

(19) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(20) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

NEW SECTION. Sec. 3. Section 1 of this act expires December 1, 2013.

NEW SECTION. Sec. 4. Section 2 of this act takes effect December 1, 2013.

Passed by the Senate March 5, 2013.

Passed by the House April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 49

[Substitute Senate Bill 5332]

FIRE PROTECTION DISTRICTS—BENEFIT CHARGES

AN ACT Relating to voter-approved benefit charges for fire protection districts; and amending RCW 52.18.050.

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

Sec. 1. RCW 52.18.050 and 1998 c 16 s 2 are each amended to read as follows:

(1) ~~((Any))~~ The initial imposition of a benefit charge authorized by this chapter ~~((shall not be effective unless a proposition to impose the benefit charge is))~~ must be approved by ((a)) sixty percent ((majority)) of the voters of the district voting at a general election or at a special election called by the district for that purpose ~~((held within the fire protection district)). An election held~~ ~~((pursuant to this section shall))~~ for the initial imposition of a benefit charge must be held not more than twelve months prior to the date on which the first ~~((such))~~ charge is to be assessed ~~((: PROVIDED, That))~~ . A benefit charge approved at an election ~~((shall not remain in effect for a period of more than six years nor more than the number of))~~ expires in six or fewer years as authorized

by the voters (~~(if fewer than six years)~~) unless subsequently reapproved by the voters.

(2) ~~((The))~~ Ballot ~~((shall))~~ measures calling for the initial imposition of a benefit charge must be submitted so as to enable ~~((the))~~ voters favoring the authorization of a ~~((fire protection district))~~ benefit charge to vote "Yes" and those opposed ~~((thereto))~~ to vote "No," and the ballot ~~((shall be))~~ question must be as follows:

"Shall county fire protection district No. be authorized to impose benefit charges each year for . . . (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.16.160?"

YES

NO

(3) ~~((Districts renewing the benefit charge may elect to use the following alternative ballot))~~ (a) The continued imposition of a benefit charge authorized by this chapter must be approved by a majority of the voters of the district voting at a general election or at a special election called by the district for that purpose.

(b) Ballot measures calling for the continued imposition of a benefit charge must be submitted so as to enable voters favoring the continued imposition of the benefit charge to vote "Yes" and those opposed to vote "No." The ballot question must be substantially in the following form:

"Shall county fire protection district No. be authorized to continue voter-authorized benefit charges each year for . . . (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.16.160?"

YES

NO

Passed by the Senate March 7, 2013.
Passed by the House April 12, 2013.
Approved by the Governor April 23, 2013.
Filed in Office of Secretary of State April 24, 2013.

CHAPTER 50

[Senate Bill 5446]

STATE AUDITOR—INVESTIGATIVE SUBPOENAS

AN ACT Relating to state auditor applications for investigative subpoenas; adding a new section to chapter 43.09 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature intends to provide a process for the state auditor's office to apply for court approval of an investigative subpoena which is authorized under current law in cases where the agency seeks such

approval, or where court approval is required by Article I, section 7 of the state Constitution. The legislature does not intend to require court approval except where otherwise required by law or Article I, section 7 of the state Constitution. The legislature does not intend to create any new authority to subpoena records or create any new rights for any person.

NEW SECTION. Sec. 2. A new section is added to chapter 43.09 RCW to read as follows:

(1) In addition to the authority granted in RCW 43.09.165, the state auditor and his or her authorized assistants 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 state auditor's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the state auditor's authority.

(2) Where the application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this section constitutes authority of law for the state auditor to subpoena the records or testimony.

(3) The state auditor and his or her authorized assistants may seek approval and a court may issue an order under this section 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.

Passed by the Senate March 5, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 51

[Engrossed Substitute Senate Bill 5458]

BUILDING MATERIALS—ASBESTOS—LABELING

AN ACT Relating to the labeling of certain asbestos-containing building materials; amending RCW 70.94.431; adding a new chapter to Title 70 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. Asbestos is a known human carcinogen that causes painful, premature deaths due to diseases such as asbestosis, mesothelioma, lung and gastrointestinal cancers, and other diseases and cancers. Activities that can lead to the release of asbestos fibers include installation, use, maintenance, repair, removal, and disposal of asbestos-containing building materials.

Many people are unaware that asbestos-containing building materials are still imported, sold, and used in the United States. Because few regulations exist that require the disclosure of asbestos in building materials, people can unknowingly be exposed to asbestos. Asbestos is generally invisible, odorless,

very durable, and highly aerodynamic. Exposure can occur well after it has been disturbed and long distances from where the asbestos release occurred.

The purpose of this chapter is to allow people to make informed decisions regarding whether or not they purchase or use building materials containing asbestos. More specifically, building materials that contain asbestos must be clearly labeled as such by manufacturers, wholesalers, and distributors.

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

(1) "Asbestos" includes the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentine), crocidolite (riebeckite), anthophyllite, and any of these minerals that have been chemically treated or altered. The chemical abstracts service registry number for each is as follows: Asbestos (1332-21-4), actinolite (13768-00-8), amosite (12172-73-5), tremolite (14567-73-8), chrysotile (12001-29-5), crocidolite (12001-28-4), and anthophyllite (17068-78-9).

(2) "Asbestos-containing building material" means any building material to which asbestos is deliberately added in any concentration or that contains more than one percent asbestos by weight or area as determined using the United States environmental protection agency method for the determination of asbestos in building materials, EPA/600/R-93/116, July 1993.

(3) "Building material" includes materials designed for, or used in, construction, renovation, repair, or maintenance of institutional, commercial, public, industrial, or residential buildings and structures. The term does not include automobiles, recreational vehicles, boats, or other mobile means of transportation.

(4) "Consumer" means any person that acquires a building material for direct use or ownership, rather than for resale or use in production and manufacturing.

(5) "Department" means the department of ecology.

(6) "Person" means any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(7) "Retailer" means any person that sells goods or commodities directly to consumers.

NEW SECTION. Sec. 3. (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 section 4 of 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.

NEW SECTION. Sec. 4. (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 section 3(3) of 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.

NEW SECTION. Sec. 5. (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.

Sec. 6. RCW 70.94.431 and 1995 c 403 s 630 are each amended to read as follows:

(1) 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 ((70.94 RCW)), chapter 70.120 RCW, chapter 70.— RCW (the new chapter created in section 7 of this act), or any of the rules in force under such chapters 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.

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) 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.

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 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) By January 1, 1992, 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.

NEW SECTION, Sec. 7. Sections 1 through 5 of this act constitute a new chapter in Title 70 RCW.

Passed by the Senate March 13, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 52

[Substitute Senate Bill 5517]

BEER AND WINE—TASTINGS—GROCERY STORES

AN ACT Relating to the beer and wine tasting endorsement for grocery stores; and amending RCW 66.24.363.

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

Sec. 1. RCW 66.24.363 and 2010 c 141 s 1 are each amended to read as follows:

(1) A grocery store licensed under RCW 66.24.360 may apply for an endorsement to offer beer and wine tasting under this section.

(2) To be issued an endorsement, a licensee must meet the following criteria:

(a) ~~((The licensee has retail sales of grocery products for off premises consumption that are more than fifty percent of the licensee's gross sales or the licensee is a membership organization that requires members to be at least eighteen years of age;~~

~~(b))~~ (b)) The licensee operates a fully enclosed retail area encompassing at least ~~((nine))~~ ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, except that the board may issue an endorsement to a licensee with a retail area encompassing less than ~~((nine))~~ ten thousand square feet if the board determines that no licensee in the community the licensee serves meets the square footage requirement and the licensee meets operational requirements established by the board by rule; and

~~((e))~~ (b) The licensee has not had more than one public safety violation within the past two years.

(3) A tasting must be conducted under the following conditions:

(a) Each sample must be two ounces or less, up to a total of four ounces, per customer during any one visit to the premises;

(b) No more than one sample of the same product offering of beer or wine may be provided to a customer during any one visit to the premises;

(c) The licensee must have food available for the tasting participants;

(d) Customers must remain in the service area while consuming samples; and

(e) The service area and facilities must be located within the licensee's fully enclosed retail area and must be of a size and design such that the licensee can observe and control persons in the area to ensure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol.

(4) Employees of licensees whose duties include serving during tasting activities under this section must hold a class 12 alcohol server permit.

(5) Tasting activities under this section are subject to RCW 66.28.305 and 66.28.040 and the cost of sampling may not be borne, directly or indirectly, by any liquor manufacturer, importer, or distributor.

(6) A licensee may advertise a tasting event only within the store, on a store web site, in store newsletters and flyers, and via e-mail and mail to customers who have requested notice of events. Advertising under this subsection may not be targeted to or appeal principally to youth.

(7)(a) If a licensee is found to have committed a public safety violation in conjunction with tasting activities, the board may suspend the licensee's tasting endorsement and not reissue the endorsement for up to two years from the date of the violation. If mitigating circumstances exist, the board may offer a monetary penalty in lieu of suspension during a settlement conference.

(b) The board may revoke an endorsement granted to a licensee that is located within the boundaries of an alcohol impact area recognized by resolution of the board if the board finds that the tasting activities by the licensee are having an adverse effect on the reduction of chronic public inebriation in the area.

(c) RCW 66.08.150 applies to the suspension or revocation of an endorsement.

(8) The board may establish additional requirements under this section to assure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol.

(9) The annual fee for the endorsement is two hundred dollars. The board shall review the fee annually and may increase the fee by rule to a level sufficient to defray the cost of administration and enforcement of the endorsement, except that the board may not increase the fee by more than ten percent annually.

(10) The board must adopt rules to implement this section.

Passed by the Senate March 13, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 53

[Senate Bill 5541]

REAL PROPERTY—REDEMPTION

AN ACT Relating to redemption of real property; and amending RCW 6.23.010.

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

Sec. 1. RCW 6.23.010 and 1987 c 442 s 701 are each amended to read as follows:

(1) Real property sold subject to redemption, as provided in RCW 6.21.080, or any part thereof separately sold, may be redeemed by the following persons, or their successors in interest:

(a) The judgment debtor, in the whole or any part of the property separately sold.

(b) A creditor having a lien by judgment, decree, deed of trust, or mortgage, on any portion of the property, or any portion of any part thereof, separately sold, subsequent in ~~((time))~~ priority to that on which the property was sold. The persons mentioned in this subsection are termed redemptioners.

(2) As used in this chapter, the terms "judgment debtor," "redemptioner," and "purchaser(=)" refer also to their respective successors in interest.

Passed by the Senate March 11, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 54

[Substitute Senate Bill 5568]

LANDLORD/TENANT—TENANT INFORMATION

AN ACT Relating to the disclosure of certain information when screening tenants; amending RCW 59.18.580; and providing an effective date.

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

Sec. 1. RCW 59.18.580 and 2004 c 17 s 4 are each amended to read as follows:

(1) A tenant screening service provider may not (a) disclose a tenant's, applicant's, or household member's status as a victim of domestic violence, sexual assault, or stalking, or (b) knowingly disclose that a tenant, applicant, or household member has previously terminated a rental agreement under RCW 59.18.575.

(2) A landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement based on the tenant's or applicant's or a household member's status as a victim of domestic violence, sexual assault, or stalking, or based on the tenant or applicant having terminated a rental agreement under RCW 59.18.575.

~~((2))~~ (3) A landlord who refuses to enter into a rental agreement in violation of subsection (2) of this section may be liable to the tenant or applicant in a civil action for damages sustained by the tenant or applicant. The prevailing party may also recover court costs and reasonable attorneys' fees.

~~((3))~~ (4) It is a defense to an unlawful detainer action under chapter 59.12 RCW that the action to remove the tenant and recover possession of the premises is in violation of subsection ((4)) (2) of this section.

~~((4))~~ (5) This section does not prohibit adverse housing decisions based upon other lawful factors within the landlord's knowledge or prohibit volunteer disclosure by an applicant of any victim circumstances.

NEW SECTION. **Sec. 2.** This act takes effect January 1, 2014.

Passed by the Senate March 11, 2013.

Passed by the House April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 55

[Second Substitute Senate Bill 5624]

K-12 SCHOOLS—APPLIED BACCALAUREATE PROGRAMS—
STEM PROGRAMS AND TECHNICAL EDUCATION

AN ACT Relating to aligning high-demand secondary STEM or career and technical education programs with applied baccalaureate programs; amending RCW 28A.300.515; and adding a new section to chapter 28B.50 RCW.

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

Sec. 1. RCW 28A.300.515 and 2007 c 396 s 15 are each amended to read as follows:

The superintendent of public instruction shall provide support for statewide coordination for math, science, and technology, including employing a statewide

director for math, science, and technology. The duties of the director shall include, but not be limited to:

(1) Within funds specifically appropriated therefor, obtain a statewide license, or otherwise obtain and disseminate, an interactive, project-based high school and middle school technology curriculum that includes a comprehensive professional development component for teachers and, if possible, counselors, and also includes a systematic program evaluation. The curriculum must be distributed to all school districts, or as many as feasible, by the 2007-08 school year;

(2) Within funds specifically appropriated therefor, supporting a public-private partnership to assist school districts with implementing an ongoing, inquiry-based science program that is based on a research-based model of systemic reform and aligned with the Washington state science grade level expectations;

(3) Within funds specifically appropriated therefor, supporting a public-private partnership to provide enriching opportunities in mathematics, engineering, and science for underrepresented students in grades kindergarten through twelve using exemplary materials and instructional approaches;

(4) In an effort to increase precollege and prework interest in math, science, and technology fields, in collaboration with the community and technical colleges, the four-year institutions of higher education, and the workforce training and education coordinating board, conducting outreach efforts to attract middle and high school students to careers in math, science, and technology and to educate students about the coursework that is necessary to be adequately prepared to succeed in these fields;

(5) Coordinating youth opportunities in math, science, and technology, including facilitating student participation in school clubs, state-level fairs, national competitions, and encouraging partnerships between students and university faculty or industry to facilitate such student participation;

(6) Developing and maintaining public-private partnerships to generate business and industry assistance to accomplish the following:

(a) Increasing student engagement and career awareness, including increasing student participation in the youth opportunities in subsection (5) of this section;

(b) Creation and promotion of student scholarships, internships, and apprenticeships;

(c) Provision of relevant teacher experience and training, including on-the-job professional development opportunities;

(d) Upgrading kindergarten through twelfth grade school equipment and facilities to support high quality math, science, and technology programs;

(7) Assembling a cadre of inspiring speakers employed or experienced in the relevant fields to speak to kindergarten through twelfth grade students to demonstrate the breadth of the opportunities in the relevant fields as well as share the types of coursework that ~~((is -are))~~ are necessary for someone to be successful in the relevant field;

(8) Providing technical assistance to schools and school districts, including working with counselors in support of the math, science, and technology programs; ~~((and))~~

(9) Subject to available funding, working with the state board for community and technical colleges to develop high-demand applied baccalaureate programs that align with high quality secondary science, technology, engineering, and mathematics programs and career and technical education programs; and

(10) Reporting annually to the legislature about the actions taken to provide statewide coordination for math, science, and technology.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.50 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose and in addition to other applied baccalaureate degree programs and pursuant to the criteria in RCW 28B.50.810, the college board shall select community or technical colleges to develop and offer two programs that support the continuation of high quality science, technology, engineering, and mathematics programs or career and technical education programs offered to students in kindergarten through twelfth grade who are prepared and aspire to continue in these high-demand areas in college and the workforce. Subject to available funding, a college selected under this section may develop the curriculum for and design and deliver courses leading to a high-demand applied baccalaureate degree.

Passed by the Senate March 12, 2013.

Passed by the House April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 56

[Senate Bill 5627]

TAXES—COMMUTER AIR CARRIERS

AN ACT Relating to the taxation of commuter air carriers; amending RCW 84.12.200, 82.48.010, and 82.48.030; adding a new section to chapter 84.36 RCW; and providing an effective date.

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

Sec. 1. RCW 84.12.200 and 1998 c 335 s 1 are each amended to read as follows:

~~((For the purposes of this chapter and unless otherwise required by the context))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" without other designation means the department of revenue of the state of Washington.

(2) "Railroad company" means and includes any person owning or operating a railroad, street railway, suburban railroad or interurban railroad in this state, whether its line of railroad be maintained at the surface, or above or below the surface of the earth, or by whatever power its vehicles are transported; or owning any station, depot, terminal or bridge for railroad purposes, as owner, lessee or otherwise.

(3)(a) "Airplane company" means and includes any person owning, controlling, operating or managing real or personal property, used or to be used

for or in connection with or to facilitate the conveyance and transportation of persons and/or property by aircraft, and engaged in the business of transporting persons and/or property for compensation, as owner, lessee or otherwise.

(b) "Airplane company" does not include a "commuter air carrier" as defined in RCW 82.48.010, whose ground property and equipment is located primarily on privately held real property.

(4) "Electric light and power company" means and includes any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the generation, transmission or distribution of electricity in this state, and engaged in the business of furnishing, transmitting, distributing or generating electrical energy for light, heat or power for compensation as owner, lessee or otherwise.

(5) "Telegraph company" means and includes any person owning, controlling, operating or managing any telegraph or cable line in this state, with appliances for the transmission of messages, and engaged in the business of furnishing telegraph service for compensation, as owner, lessee or otherwise.

(6) "Telephone company" means and includes any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the transmission of communication by telephone in this state through owned or controlled exchanges and/or switchboards, and engaged in the business of furnishing telephonic communication for compensation as owner, lessee or otherwise.

(7) "Gas company" means and includes any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the manufacture, transportation, or distribution of natural or manufactured gas in this state, and engaged for compensation in the business of furnishing gas for light, heat, power or other use, as owner, lessee or otherwise.

(8) "Pipe line company" means and includes any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance or transportation of oils, natural or manufactured gas and/or other substances, except water, by pipe line in this state, and engaged in such business for compensation, as owner, lessee or otherwise.

(9) "Logging railroad company" means and includes any person owning, controlling, operating or managing real or personal property, used or to be used for or in connection with or to facilitate the conveyance and transportation of forest products by rail in this state, and engaged in the business of transporting forest products either as private carrier or carrier for hire.

(10) "Person" means and includes any individual, firm, copartnership, joint venture, association, corporation, trust, or any other group acting as a unit, whether mutual, cooperative or otherwise, and/or trustees or receivers appointed by any court.

(11) "Company" means and includes any railroad company, airplane company, electric light and power company, telegraph company, telephone company, gas company, pipe line company, or logging railroad company; and the term "companies" means and includes all of such companies.

(12) "Operating property" means and includes all property, real and personal, owned by any company, or held by it as occupant, lessee or otherwise,

including all franchises and lands, buildings, rights-of-way, water powers, motor vehicles, wagons, horses, aircraft, aerodromes, hangars, office furniture, water mains, gas mains, pipe lines, pumping stations, tanks, tank farms, holders, reservoirs, telephone lines, telegraph lines, transmission and distribution lines, dams, generating plants, poles, wires, cables, conduits, switch boards, devices, appliances, instruments, equipment, machinery, landing slips, docks, roadbeds, tracks, terminals, rolling stock equipment, appurtenances and all other property of a like or different kind, situate within the state of Washington, used by the company in the conduct of its operations; and, in case of personal property used partly within and partly without the state, it means and includes a proportion of such personal property to be determined as in this chapter provided.

(13) "Nonoperating property" means all physical property owned by any company, other than that used during the preceding calendar year in the conduct of its operations. It includes all lands and/or buildings wholly used by any person other than the owning company. In cases where lands and/or buildings are used partially by the owning company in the conduct of its operations and partially by any other person not assessable under this chapter under lease, sublease, or other form of tenancy, the operating and nonoperating property of the company whose property is assessed (~~hereunder shall~~) under this section must be determined by the department of revenue in such manner as will, in its judgment, secure the separate valuation of such operating and nonoperating property upon a fair and equitable basis. The amount of operating revenue received from tenants or occupants of property of the owning company (~~shall~~) may not be considered material in determining the classification of such property.

Sec. 2. RCW 82.48.010 and 1995 c 318 s 4 are each amended to read as follows:

~~((For the purposes of this chapter, unless otherwise required by the context:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aircraft" means any weight-carrying device or structure for navigation of the air which is designed to be supported by the air((:)).

(2) "Secretary" means the secretary of transportation((:)).

(3) "Person" includes a firm, partnership, limited liability company, or corporation((:)).

(4) "Small multi-engine fixed wing" means any piston-driven multi-engine fixed wing aircraft with a maximum gross weight as listed by the manufacturer of less than seventy-five hundred pounds(~~(-and)~~).

(5) "Large multi-engine fixed wing" means any piston-driven multi-engine fixed wing aircraft with a maximum gross weight as listed by the manufacturer of seventy-five hundred pounds or more.

(6) "Commuter air carrier" means an air carrier holding authority under Title 14, Part 298 of the code of federal regulations that carries passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed.

Sec. 3. RCW 82.48.030 and 1983 2nd ex.s. c 3 s 22 are each amended to read as follows:

(1)(a) Except as otherwise provided in (b) of this subsection, the amount of the tax imposed by this chapter for each calendar year (~~shall be~~) is as follows:

Type of aircraft	Registration fee
Single engine fixed wing	\$ 50
Small multi-engine fixed wing	65
Large multi-engine fixed wing	80
Turboprop multi-engine fixed wing	100
Turbojet multi-engine fixed wing	125
Helicopter	75
Sailplane	20
Lighter than air	20
Home built	20

(b) The amount of tax imposed by this chapter for each calendar year with respect to aircraft owned and operated by a commuter air carrier that is not an airplane company as defined in RCW 84.12.200 is as follows:

<u>Gross maximum take-off weight of the aircraft</u>	<u>Registration fee</u>
<u>Less than 4,001 lbs.</u>	<u>\$500</u>
<u>4,001-6,000 lbs.</u>	<u>\$1,000</u>
<u>6,001-8,000 lbs.</u>	<u>\$2,000</u>
<u>8,001-9,000 lbs.</u>	<u>\$3,000</u>
<u>9,001-12,500 lbs.</u>	<u>\$4,000</u>

(2)(a) The amount of tax imposed under subsection (1) of this section for each calendar year (~~shall~~) must be divided into twelve parts corresponding to the months of the calendar year and the excise tax upon an aircraft registered for the first time in this state after the last day of any month (~~shall~~) may only be levied for the remaining months of the calendar year including the month in which the aircraft is being registered(~~(:—PROVIDED, That)~~). However, the minimum amount payable (~~shall be~~) is three dollars.

(b) An aircraft (~~shall be~~) is deemed registered for the first time in this state when such aircraft was not previously registered by this state for the year immediately preceding the year in which application for registration is made.

NEW SECTION. Sec. 4. A new section is added to chapter 84.36 RCW to read as follows:

(1) An aircraft owned and operated by a commuter air carrier in respect to which the tax imposed under RCW 82.48.030 has been paid for a calendar year is exempt from property taxation for that calendar year.

(2) For the purposes of this section, "aircraft" and "commuter air carrier" have the same meanings as provided in RCW 82.48.010.

NEW SECTION. Sec. 5. This act takes effect January 1, 2014.

Passed by the Senate March 11, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.
Filed in Office of Secretary of State April 24, 2013.

CHAPTER 57

[Senate Bill 5712]

HIGHER EDUCATION—PRECOLLEGE PLACEMENT

AN ACT Relating to precollege placement measures; and amending RCW 28B.50.090.

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

Sec. 1. RCW 28B.50.090 and 2011 c 109 s 1 are each amended to read as follows:

The college board shall have general supervision and control over the state system of community and technical colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the boards of trustees, prepare a single budget for the support of the state system of community and technical colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) That each college district, in coordination with colleges, within a regional area, shall offer thoroughly comprehensive educational, training, and service programs to meet the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(b) That each college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of the student's residence or because of the student's educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: PROVIDED, That the administrative officers of a community or technical college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, the student would not be competent to profit from the curriculum offerings of the college, or would, by his or her presence or conduct, create a disruptive atmosphere within the college not consistent with the purposes of the institution. This subsection (3)(b) shall not apply to competency, conduct, or presence associated with a disability in a person twenty-one years of age or younger attending a technical college;

(4) Prepare a comprehensive master plan for the development of community and technical college education and training in the state; and assist the office of financial management in the preparation of enrollment projections to support plans for providing adequate college facilities in all areas of the state. The master plan shall include implementation of the vision, goals, priorities, and strategies in the statewide strategic master plan for higher education under RCW 28B.76.200 based on the community and technical college system's role and mission. The master plan shall also contain measurable performance indicators and benchmarks for gauging progress toward achieving the goals and priorities;

(5) Define and administer criteria and guidelines for the establishment of new community and technical colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines and consolidating district structures to form multiple campus districts consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community and technical colleges with respect to:

(a) Qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education;

(b) Internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW;

(c) The content of the curriculums and other educational and training programs, and the requirement for degrees and certificates awarded by the colleges;

(d) Standard admission policies;

(e) Eligibility of courses to receive state fund support; and

(f) Common student identifiers such that once a student has enrolled at any community or technical college he or she retains the same student identification upon transfer to any college district;

(8) Encourage colleges to use multiple measures to determine whether a student must enroll in a precollege course including, but not limited to, placement tests, the SAT, high school transcripts, college transcripts, or initial class performance, and require colleges to post all the available options for course placement on their web site and in their admissions materials;

(9) Establish and administer criteria and procedures for all capital construction including the establishment, installation, and expansion of facilities within the various college districts;

~~((9))~~ (10) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

~~((10))~~ (11) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

~~((11))~~ (12) Authorize the various community and technical colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

~~((42))~~ (13) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community and technical college real and personal property, except such property as is received by a college district in accordance with RCW 28B.50.140(8), when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community and technical college system;

~~((43))~~ (14) In order that the treasurer for the state board for community and technical colleges appointed in accordance with RCW 28B.50.085 may make vendor payments, the state treasurer will honor warrants drawn by the state board providing for an initial advance on July 1, 1982, of the current biennium and on July 1st of each succeeding biennium from the state general fund in an amount equal to twenty-four percent of the average monthly allotment for such budgeted biennium expenditures for the state board for community and technical colleges as certified by the office of financial management; and at the conclusion of such initial month and for each succeeding month of any biennium, the state treasurer will reimburse expenditures incurred and reported monthly by the state board treasurer in accordance with chapter 43.88 RCW: PROVIDED, That the reimbursement to the state board for actual expenditures incurred in the final month of each biennium shall be less the initial advance made in such biennium;

~~((44))~~ (15) Notwithstanding the provisions of subsection ~~((42))~~ (13) of this section, may receive such gifts, grants, conveyances, devises, and bequests of real or personal property from private sources as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community and technical college programs and may sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof; and

~~((45))~~ (16) The college board shall have the power of eminent domain.

Passed by the Senate March 5, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 58

[Substitute Senate Bill 5352]

REAL ESTATE—AGENCY RELATIONSHIP

AN ACT Relating to the real estate agency relationship; and amending RCW 18.86.010, 18.86.020, 18.86.030, 18.86.031, 18.86.040, 18.86.050, 18.86.060, 18.86.070, 18.86.080, 18.86.090, 18.86.100, 18.86.110, and 18.86.120.

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

Sec. 1. RCW 18.86.010 and 1996 c 179 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) "Agency relationship" means the agency relationship created under this chapter or by written agreement between a ~~((licensee))~~ real estate firm and a

buyer and/or seller relating to the performance of real estate brokerage services ((by the licensee)).

(2) "Agent" means a ((licensee)) broker who has entered into an agency relationship with a buyer or seller.

(3) "Broker" means broker, managing broker, and designated broker, collectively, as defined in chapter 18.85 RCW, unless the context requires the terms to be considered separately.

(4) "Business opportunity" means and includes a business, business opportunity, and goodwill of an existing business, or any one or combination thereof when the transaction or business includes an interest in real property.

((4)) (5) "Buyer" means an actual or prospective purchaser in a real estate transaction, or an actual or prospective tenant in a real estate rental or lease transaction, as applicable.

((5)) (6) "Buyer's agent" means a ((licensee)) broker who has entered into an agency relationship with only the buyer in a real estate transaction, and includes subagents engaged by a buyer's agent.

((6)) (7) "Confidential information" means information from or concerning a principal of a ((licensee)) broker that:

(a) Was acquired by the ((licensee)) broker during the course of an agency relationship with the principal;

(b) The principal reasonably expects to be kept confidential;

(c) The principal has not disclosed or authorized to be disclosed to third parties;

(d) Would, if disclosed, operate to the detriment of the principal; and

(e) The principal personally would not be obligated to disclose to the other party.

((7)) (8) "Dual agent" means a ((licensee)) broker who has entered into an agency relationship with both the buyer and seller in the same transaction.

~~((8) "Licensee" means a real estate broker, associate real estate broker, or real estate salesperson, as those terms are defined in chapter 18.85 RCW.))~~

(9) "Material fact" means information that substantially adversely affects the value of the property or a party's ability to perform its obligations in a real estate transaction, or operates to materially impair or defeat the purpose of the transaction. The fact or suspicion that the property, or any neighboring property, is or was the site of a murder, suicide or other death, rape or other sex crime, assault or other violent crime, robbery or burglary, illegal drug activity, gang-related activity, political or religious activity, or other act, occurrence, or use not adversely affecting the physical condition of or title to the property is not a material fact.

(10) "Principal" means a buyer or a seller who has entered into an agency relationship with a ((licensee)) broker.

(11) "Real estate brokerage services" means the rendering of services for which a real estate license is required under chapter 18.85 RCW.

(12) "Real estate firm" or "firm" have the same meaning as defined in chapter 18.85 RCW.

(13) "Real estate transaction" or "transaction" means an actual or prospective transaction involving a purchase, sale, option, or exchange of any interest in real property or a business opportunity, or a lease or rental of real

property. For purposes of this chapter, a prospective transaction does not exist until a written offer has been signed by at least one of the parties.

~~((13))~~ (14) "Seller" means an actual or prospective seller in a real estate transaction, or an actual or prospective landlord in a real estate rental or lease transaction, as applicable.

~~((14))~~ (15) "Seller's agent" means a ~~((licensee))~~ broker who has entered into an agency relationship with only the seller in a real estate transaction, and includes subagents engaged by a seller's agent.

~~((15))~~ (16) "Subagent" means a ~~((licensee))~~ broker who is engaged to act on behalf of a principal by the principal's agent where the principal has authorized the ~~((agent))~~ broker in writing to appoint subagents.

Sec. 2. RCW 18.86.020 and 1997 c 217 s 1 are each amended to read as follows:

(1) A ~~((licensee))~~ broker who performs real estate brokerage services for a buyer is a buyer's agent unless the:

(a) ~~((Licensee has entered into))~~ Broker's firm has appointed the broker to represent the seller pursuant to a written agency agreement ((with) between the firm and the seller, in which case the ((licensee)) broker is a seller's agent;

(b) ~~((Licensee))~~ Broker has entered into a subagency agreement with the seller's agent's firm, in which case the ~~((licensee))~~ broker is a seller's agent;

(c) ~~((Licensee has entered into))~~ Broker's firm has appointed the broker to represent the seller pursuant to a written agency agreement ((with both parties)) between the firm and the seller, and the broker's firm has appointed the broker to represent the buyer pursuant to a written agency agreement between the firm and the buyer, in which case the ((licensee)) broker is a dual agent;

(d) ~~((Licensee))~~ Broker is the seller or one of the sellers; or

(e) Parties agree otherwise in writing after the ~~((licensee))~~ broker has complied with RCW 18.86.030(1)(f).

(2) In a transaction in which different ~~((licensees))~~ brokers affiliated with the same ~~((broker))~~ firm represent different parties, the ~~((broker))~~ firm's designated broker and any managing broker responsible for the supervision of both brokers, is a dual agent, and must obtain the written consent of both parties as required under RCW 18.86.060. In such ~~((a))~~ case, each ~~((licensee))~~ of the brokers shall solely represent the party with whom the ~~((licensee))~~ broker has an agency relationship, unless all parties agree in writing that ~~((both licensees are))~~ the broker is a dual agent(s).

(3) A ~~((licensee))~~ broker may work with a party in separate transactions pursuant to different relationships, including, but not limited to, representing a party in one transaction and at the same time not representing that party in a different transaction involving that party, if the ~~((licensee))~~ broker complies with this chapter in establishing the relationships for each transaction.

Sec. 3. RCW 18.86.030 and 1996 c 179 s 3 are each amended to read as follows:

(1) Regardless of whether ~~((the licensee))~~ a broker is an agent, ~~((a licensee))~~ the broker owes to all parties to whom the ~~((licensee))~~ broker renders real estate brokerage services the following duties, which may not be waived:

(a) To exercise reasonable skill and care;

(b) To deal honestly and in good faith;

(c) To present all written offers, written notices and other written communications to and from either party in a timely manner, regardless of whether the property is subject to an existing contract for sale or the buyer is already a party to an existing contract to purchase;

(d) To disclose all existing material facts known by the ((licensee)) broker and not apparent or readily ascertainable to a party; provided that this subsection shall not be construed to imply any duty to investigate matters that the ((licensee)) broker has not agreed to investigate;

(e) To account in a timely manner for all money and property received from or on behalf of either party;

(f) To provide a pamphlet on the law of real estate agency in the form prescribed in RCW 18.86.120 to all parties to whom the ((licensee)) broker renders real estate brokerage services, before the party signs an agency agreement with the ((licensee)) broker, signs an offer in a real estate transaction handled by the ((licensee)) broker, consents to dual agency, or waives any rights, under RCW 18.86.020(1)(e), 18.86.040(1)(e), 18.86.050(1)(e), or 18.86.060(2)(e) or (f), whichever occurs earliest; and

(g) To disclose in writing to all parties to whom the ((licensee)) broker renders real estate brokerage services, before the party signs an offer in a real estate transaction handled by the ((licensee)) broker, whether the ((licensee)) broker represents the buyer, the seller, both parties, or neither party. The disclosure shall be set forth in a separate paragraph entitled "Agency Disclosure" in the agreement between the buyer and seller or in a separate writing entitled "Agency Disclosure."

(2) Unless otherwise agreed, a ((licensee)) broker owes no duty to conduct an independent inspection of the property or to conduct an independent investigation of either party's financial condition, and owes no duty to independently verify the accuracy or completeness of any statement made by either party or by any source reasonably believed by the ((licensee)) broker to be reliable.

Sec. 4. RCW 18.86.031 and 1996 c 179 s 14 are each amended to read as follows:

A violation of RCW 18.86.030 is a violation of RCW ((18.85.230)) 18.85.361.

Sec. 5. RCW 18.86.040 and 1997 c 217 s 2 are each amended to read as follows:

(1) Unless additional duties are agreed to in writing signed by a seller's agent, the duties of a seller's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the seller by taking no action that is adverse or detrimental to the seller's interest in a transaction;

(b) To timely disclose to the seller any conflicts of interest;

(c) To advise the seller to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) Not to disclose any confidential information from or about the seller, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the seller's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a seller's agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale.

(2)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a seller's agent does not in and of itself breach the duty of loyalty to the seller or create a conflict of interest.

(b) The representation of more than one seller by different ~~((licensees))~~ brokers affiliated with the same ~~((broker))~~ firm in competing transactions involving the same buyer does not in and of itself breach the duty of loyalty to the sellers or create a conflict of interest.

Sec. 6. RCW 18.86.050 and 1997 c 217 s 3 are each amended to read as follows:

(1) Unless additional duties are agreed to in writing signed by a buyer's agent, the duties of a buyer's agent are limited to those set forth in RCW 18.86.030 and the following, which may not be waived except as expressly set forth in (e) of this subsection:

(a) To be loyal to the buyer by taking no action that is adverse or detrimental to the buyer's interest in a transaction;

(b) To timely disclose to the buyer any conflicts of interest;

(c) To advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(d) Not to disclose any confidential information from or about the buyer, except under subpoena or court order, even after termination of the agency relationship; and

(e) Unless otherwise agreed to in writing after the buyer's agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a buyer's agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the buyer's agent.

(2)(a) The showing of property in which a buyer is interested to other prospective buyers by a buyer's agent does not in and of itself breach the duty of loyalty to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different ~~((licensees))~~ brokers affiliated with the same ~~((broker))~~ firm in competing transactions involving the same property does not in and of itself breach the duty of loyalty to the buyer~~(s)~~ or create a conflict of interest.

Sec. 7. RCW 18.86.060 and 1997 c 217 s 4 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, a ~~((licensee))~~ broker may act as a dual agent only with the written consent of both parties to the transaction after the dual agent has complied with RCW 18.86.030(1)(f), which consent must include a statement of the terms of compensation.

(2) Unless additional duties are agreed to in writing signed by a dual agent, the duties of a dual agent are limited to those set forth in RCW 18.86.030 and the

following, which may not be waived except as expressly set forth in (e) and (f) of this subsection:

(a) To take no action that is adverse or detrimental to either party's interest in a transaction;

(b) To timely disclose to both parties any conflicts of interest;

(c) To advise both parties to seek expert advice on matters relating to the transaction that are beyond the dual agent's expertise;

(d) Not to disclose any confidential information from or about either party, except under subpoena or court order, even after termination of the agency relationship;

(e) Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a buyer for the property; except that a dual agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale; and

(f) Unless otherwise agreed to in writing after the dual agent has complied with RCW 18.86.030(1)(f), to make a good faith and continuous effort to find a property for the buyer; except that a dual agent is not obligated to: (i) Seek additional properties to purchase while the buyer is a party to an existing contract to purchase; or (ii) show properties as to which there is no written agreement to pay compensation to the dual agent.

(3)(a) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a dual agent does not in and of itself constitute action that is adverse or detrimental to the seller or create a conflict of interest.

(b) The representation of more than one seller by different (~~licensees affiliated with~~) brokers licensed to the same (~~broker~~) firm in competing transactions involving the same buyer does not in and of itself constitute action that is adverse or detrimental to the sellers or create a conflict of interest.

(4)(a) The showing of property in which a buyer is interested to other prospective buyers or the presentation of additional offers to purchase property while the property is subject to a transaction by a dual agent does not in and of itself constitute action that is adverse or detrimental to the buyer or create a conflict of interest.

(b) The representation of more than one buyer by different (~~licensees affiliated with the~~) brokers licensed to the same (~~broker~~) firm in competing transactions involving the same property does not in and of itself constitute action that is adverse or detrimental to the buyers or create a conflict of interest.

Sec. 8. RCW 18.86.070 and 1997 c 217 s 5 are each amended to read as follows:

(1) The agency relationships set forth in this chapter commence at the time that the (~~licensee~~) broker undertakes to provide real estate brokerage services to a principal and continue until the earliest of the following:

(a) Completion of performance by the (~~licensee~~) broker;

(b) Expiration of the term agreed upon by the parties;

(c) Termination of the relationship by mutual agreement of the parties; or

(d) Termination of the relationship by notice from either party to the other.

However, such a termination does not affect the contractual rights of either party.

(2) Except as otherwise agreed to in writing, a ~~((licensee))~~ broker owes no further duty after termination of the agency relationship, other than the duties of:

(a) Accounting for all moneys and property received during the relationship; and

(b) Not disclosing confidential information.

Sec. 9. RCW 18.86.080 and 1997 c 217 s 6 are each amended to read as follows:

(1) In any real estate transaction, ~~((the broker's))~~ a firm's compensation may be paid by the seller, the buyer, a third party, or by sharing the compensation between ~~((brokers))~~ firms.

(2) An agreement to pay or payment of compensation does not establish an agency relationship between the party who paid the compensation and the ~~((licensee))~~ broker.

(3) A seller may agree that a seller's agent's firm may share with another ~~((broker))~~ firm the compensation paid by the seller.

(4) A buyer may agree that a buyer's agent's firm may share with another ~~((broker))~~ firm the compensation paid by the buyer.

(5) A ~~((broker))~~ firm may be compensated by more than one party for real estate brokerage services in a real estate transaction, if those parties consent in writing at or before the time of signing an offer in the transaction.

(6) A ~~((buyer's agent or dual agent))~~ firm may receive compensation based on the purchase price without breaching any duty to the buyer or seller.

(7) Nothing contained in this chapter negates the requirement that an agreement authorizing or employing a ~~((licensee))~~ broker to sell or purchase real estate for compensation or a commission be in writing and signed by the seller or buyer.

Sec. 10. RCW 18.86.090 and 1996 c 179 s 9 are each amended to read as follows:

(1) A principal is not liable for an act, error, or omission by an agent or subagent of the principal arising out of an agency relationship:

(a) Unless the principal participated in or authorized the act, error, or omission; or

(b) Except to the extent that: (i) The principal benefited from the act, error, or omission; and (ii) the court determines that it is highly probable that the claimant would be unable to enforce a judgment against the agent or subagent.

(2) A ~~((licensee))~~ broker is not liable for an act, error, or omission of a subagent under this chapter, unless ~~((the licensee))~~ that broker participated in or authorized the act, error or omission. This subsection does not limit the liability of a ~~((real estate broker))~~ firm for an act, error, or omission by ~~((an associate real estate))~~ a broker ~~((or real estate salesperson))~~ licensed to ~~((that broker))~~ the firm.

Sec. 11. RCW 18.86.100 and 1996 c 179 s 10 are each amended to read as follows:

(1) Unless otherwise agreed to in writing, a principal does not have knowledge or notice of any facts known by an agent or subagent of the principal that are not actually known by the principal.

(2) Unless otherwise agreed to in writing, a ~~((licensee))~~ broker does not have knowledge or notice of any facts known by a subagent that are not actually known by the ~~((licensee))~~ broker. This subsection does not limit the knowledge

imputed to ~~((a real estate))~~ the designated broker or any managing broker responsible for the supervision of the broker of any facts known by ~~((an associate real estate broker or real estate salesperson licensed to such))~~ the broker.

Sec. 12. RCW 18.86.110 and 1996 c 179 s 11 are each amended to read as follows:

The duties under this chapter are statutory duties and not fiduciary duties. This chapter supersedes ~~((only the duties of the parties under the common law, including))~~ the fiduciary duties of an agent to a principal~~((, to the extent inconsistent with this chapter))~~ under the common law. The common law continues to apply to the parties in all other respects. This chapter does not affect the duties of a ~~((licensee))~~ broker while engaging in the authorized or unauthorized practice of law as determined by the courts of this state. This chapter shall be construed broadly.

Sec. 13. RCW 18.86.120 and 2012 c 185 s 2 are each amended to read as follows:

(1) The pamphlet required under RCW 18.86.030(1)(f) shall consist of the entire text of RCW 18.86.010 through 18.86.030 and 18.86.040 through 18.86.110 with a separate cover page. The pamphlet shall be 8 1/2 by 11 inches in size, the text shall be in print no smaller than 10-point type, the cover page shall be in print no smaller than 12-point type, and the title of the cover page "The Law of Real Estate Agency" shall be in print no smaller than 18-point type. The cover page shall be in the following form:

The Law of Real Estate Agency

This pamphlet describes your legal rights in dealing with a real estate firm or broker ~~((or salesperson))~~. Please read it carefully before signing any documents.

The following is only a brief summary of the attached law:

Sec. 1. Definitions. Defines the specific terms used in the law.

Sec. 2. Relationships between ~~((Licensees))~~ Brokers and the Public. ~~((States))~~ Prescribes that a ~~((licensee))~~ broker who works with a buyer or tenant represents that buyer or tenant—unless the ~~((licensee))~~ broker is the listing agent, a seller's subagent, a dual agent, the seller personally or the parties agree otherwise. Also ~~((states))~~ prescribes that in a transaction involving two different ~~((licensees affiliated with the same broker, the broker is a dual agent and each licensee))~~ brokers licensed to the same real estate firm, the firm's designated broker and any managing broker responsible for the supervision of both brokers, are dual agents and each broker solely represents his or her client—unless the parties agree in writing that both ~~((licensees))~~ brokers are dual agents.

Sec. 3. Duties of a ~~((Licensee))~~ Broker Generally. Prescribes the duties that are owed by all ~~((licensees))~~ brokers, regardless of who the ~~((licensee))~~ broker represents. Requires disclosure of the ~~((licensee's))~~ broker's agency relationship in a specific transaction.

Sec. 4. Duties of a Seller's Agent. Prescribes the additional duties of a ~~((licensee))~~ broker representing the seller or landlord only.

Sec. 5. Duties of a Buyer's Agent. Prescribes the additional duties of a ~~((licensee))~~ broker representing the buyer or tenant only.

Sec. 6. Duties of a Dual Agent. Prescribes the additional duties of a ~~((licensee))~~ broker representing both parties in the same transaction, and requires the written consent of both parties to the ~~((licensee))~~ broker acting as a dual agent.

Sec. 7. Duration of Agency Relationship. Describes when an agency relationship begins and ends. Provides that the duties of accounting and confidentiality continue after the termination of an agency relationship.

Sec. 8. Compensation. Allows ~~((brokers))~~ real estate firms to share compensation with cooperating ~~((brokers))~~ real estate firms. States that payment of compensation does not necessarily establish an agency relationship. Allows brokers to receive compensation from more than one party in a transaction with the parties' consent.

Sec. 9. Vicarious Liability. Eliminates the ~~((common-law))~~ liability of a party for the conduct of the party's agent or subagent, unless the principal participated in or benefited from the conduct or the agent or subagent is insolvent. Also limits the liability of a broker for the conduct of a subagent ~~((associated with a different broker))~~.

Sec. 10. Imputed Knowledge and Notice. Eliminates the common law rule that notice to or knowledge of an agent constitutes notice to or knowledge of the principal.

Sec. 11. Interpretation. This law ~~((replaces the))~~ establishes statutory duties which replace common law fiduciary duties owed by an agent to a principal ~~((under the common law, to the extent that it conflicts with the common law))~~.

Sec. 12. Short Sale. Prescribes an additional duty of a firm representing the seller of owner-occupied real property in a short sale.

(2)(a) The pamphlet required under RCW 18.86.030(1)(f) must also include the following disclosure: When the seller of owner-occupied residential real property enters into a listing agreement with a real estate ~~((licensee))~~ firm where the proceeds from the sale may be insufficient to cover the costs at closing, it is the responsibility of the real estate ~~((licensee))~~ firm to disclose to the seller in writing that the decision by any beneficiary or mortgagee, or its assignees, to release its interest in the real property, for less than the amount the borrower owes, does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including fees such as the real estate ~~((licensee's))~~ firm's commission.

(b) For the purposes of this subsection, "owner-occupied real property" means real property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit that is the principal residence of the borrower.

Passed by the Senate March 11, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 59

[Substitute Senate Bill 5774]

ALCOHOL—TASTING—COMMUNITY AND TECHNICAL COLLEGES

AN ACT Relating to authorizing applications for a special permit to allow alcohol tasting by persons at least eighteen years of age under certain circumstances; and amending RCW 66.20.010.

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

Sec. 1. RCW 66.20.010 and 2012 c 2 s 109 (Initiative Measure No. 1183) are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least eighteen years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is twenty-one years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages; and

(f) The permit fee for the special permit provided for in this subsection (12) shall be waived by the board.

Passed by the Senate March 7, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 60

[Engrossed Substitute Senate Bill 5849]

MOTOR VEHICLES—ELECTRIC VEHICLE CHARGING STATIONS

AN ACT Relating to electric vehicle charging stations; adding a new section to chapter 46.08 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.08 RCW to read as follows:

(1) An electric vehicle charging station must be indicated by vertical signage identifying the station as an electric vehicle charging station and indicating that it is only for electric vehicle charging. The signage must be consistent with the manual on uniform traffic control devices, as adopted by the department of transportation under RCW 47.36.030. Additionally, the electric vehicle charging station must be indicated by green pavement markings. Supplementary signage may be posted to provide additional information including, but not limited to, the amount of the monetary penalty under subsection (2) of this section for parking in the station while not connected to the charging equipment.

(2) It is a parking infraction, with a monetary penalty of one hundred twenty-four dollars, for any person to park a vehicle in an electric vehicle charging station provided on public or private property if the vehicle is not connected to the charging equipment. The parking infraction must be processed as prescribed under RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3).

(3) For purposes of this section, "electric vehicle charging station" means a public or private parking space that is served by charging equipment that has as its primary purpose the transfer of electric energy to a battery or other energy storage device in an electric vehicle.

Passed by the Senate March 13, 2013.

Passed by the House April 12, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 61

[Substitute Senate Bill 5400]

UTILITIES—ELIGIBLE RENEWABLE RESOURCES

AN ACT Relating to allowing utilities serving customers in Washington and in other states to use eligible renewable resources in their other states to comply with chapter 19.285 RCW, the energy independence act; and reenacting and amending RCW 19.285.030.

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

Sec. 1. RCW 19.285.030 and 2012 c 22 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) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3)(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.

(4) "Commission" means the Washington state utilities and transportation commission.

(5) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(6) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(7) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(8) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(9) "Department" means the department of commerce or its successor.

(10) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(11) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services;

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric

generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments; (~~and~~)

(c) Qualified biomass energy; or

(d) For a qualifying utility that serves customers in other states, electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located within a state in which the qualifying utility serves retail electrical customers; and (ii) the qualifying utility owns the facility in whole or in part or has a long-term contract with the facility of at least twelve months or more.

(12) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(13) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(14) "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 from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(15) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(16) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(17) "Qualified biomass energy" means electricity produced from a biomass energy facility that: (a) Commenced operation before March 31, 1999; (b) contributes to the qualifying utility's load; and (c) is owned either by: (i) A qualifying utility; or (ii) an industrial facility that is directly interconnected with electricity facilities that are owned by a qualifying utility and capable of carrying electricity at transmission voltage.

(18) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(19) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by freshwater. 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.

(20) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-

growth forests where the clearing occurred after December 7, 2006; or (i) biomass energy.

(21) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(22) "Year" means the twelve-month period commencing January 1st and ending December 31st.

Passed by the Senate March 11, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 62

[Senate Bill 5466]

CRIMINAL HISTORY RECORDS—COMPLIANCE AUDITS

AN ACT Relating to criminal history record information compliance audits; and amending RCW 10.98.100.

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

Sec. 1. RCW 10.98.100 and 2005 c 282 s 24 are each amended to read as follows:

The section shall administer a compliance audit at least once annually for each prosecuting attorney, district and municipal court, and originating agency to ensure that all disposition reports have been received and added to the criminal ~~((offender))~~ history record information described in RCW 43.43.705. The section shall ~~((prepare listings of all arrests charged and listed in the))~~ identify criminal ~~((offender))~~ history record information for which no disposition report has been received and ~~((which))~~ has been outstanding for ~~((more than nine months))~~ one year or longer since the date of arrest. Each ~~((prosecuting attorney, district and municipal court, and originating))~~ open arrest shall be researched for a final disposition by section staff or the criminal justice agency shall be furnished a list of outstanding disposition reports for criminal history record information of persons who were arrested or against whom charges were filed by that agency. Each criminal justice agency shall provide the section with a current disposition report or status within sixty days of receipt of notification of open arrest. Cases pending prosecution shall be considered outstanding dispositions in the compliance audit. ~~((Within forty-five days, the prosecuting attorney, district and municipal court, and originating agency shall provide the section with a current disposition report for each outstanding disposition. The section shall assist prosecuting attorneys with the compliance audit by cross-checking outstanding cases with the administrative office of the courts and the department of corrections. The section may provide technical assistance to prosecuting attorneys, district or municipal courts, or originating agencies for their compliance audits.))~~ The results of compliance audits shall be published annually and distributed to legislative committees dealing with criminal justice issues, the office of financial management, and criminal justice agencies and associations.

Passed by the Senate February 25, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.
Filed in Office of Secretary of State April 24, 2013.

CHAPTER 63

[Senate Bill 5751]

STATE AGENCIES—FEE INVENTORY

AN ACT Relating to requiring an inventory of state fees; amending RCW 44.48.150; and adding a new section to chapter 43.88 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.88 RCW to read as follows:

(1) By January 1, 2014, the office of financial management shall compile, maintain, and periodically update an inventory of all fees imposed by state agencies and institutions of higher education pursuant to statute or administrative rule. At a minimum, the inventory shall identify the agency or institution collecting the fee, the purpose of the fee, the current amount of the fee, the amount of the fee over the previous five years, and the statutory authority for the fee. The office of financial management may aggregate or consolidate fee information when there is commonality among the fee payers or the purposes for which the fee is paid.

(2) To facilitate the fee inventory under this section, each state agency and institution of higher education shall report the information required under subsection (1) of this section to the office of financial management and shall update the information at least every two years.

(3) The fee inventory under this section shall be incorporated into the state expenditure information web site maintained by the legislative evaluation and accountability program committee under RCW 44.48.150.

(4) The office of financial management shall convene a work group consisting of representatives from the legislative evaluation and accountability program committee, the office of regulatory assistance, the department of licensing, the department of labor and industries, the department of transportation, and the department of health to develop a process to facilitate more frequent updates to the inventory and to recommend changes to increase public accessibility.

(5) For purposes of this section, "fee" means any charge, fixed by law or administrative rule, for the benefit of a service or to cover the cost of a regulatory program or the costs of administering a program for which the fee payer benefits. "Fee" does not include taxes; penalties or fines; intergovernmental charges; commercial charges; pension or health care contributions or rates; industrial, unemployment, or other state-operated insurance programs; or individualized cost recoveries.

Sec. 2. RCW 44.48.150 and 2008 c 326 s 2 are each amended to read as follows:

(1) By January 1, 2009, in collaboration with the office of financial management, using existing databases and structures currently shared, the office of the legislative evaluation and accountability program committee shall establish and make available to the public a searchable state expenditure

information web site. The state expenditure information web site shall provide access to current budget data, access to current accounting data for budgeted expenditures and staff, and access to historical data. At a minimum, the web site will provide access or links to the following information as data are available:

- (a) State expenditures by fund or account;
- (b) State expenditures by agency, program, and subprogram;
- (c) State revenues by major source;
- (d) State expenditures by object and subobject;
- (e) State agency workloads, caseloads, and performance measures, and recent performance audits; (~~and~~)

(f) State agency budget data by activity; and

(g) The inventory of state agency fees required by section 1 of this act.

(2) "State agency," as used in this section, includes every state agency, office, board, commission, or institution of the executive, legislative, or judicial branches, including institutions of higher education.

(3) The state expenditure information web site shall be updated periodically as subsequent fiscal year data become available, and the prior year expenditure data shall be maintained by the legislative evaluation and accountability program committee as part of its ten-year historical budget data.

Passed by the Senate March 12, 2013.

Passed by the House April 9, 2013.

Approved by the Governor April 23, 2013.

Filed in Office of Secretary of State April 24, 2013.

CHAPTER 64

[Substitute House Bill 1034]

ESCROW AGENTS—LICENSING

AN ACT Relating to the licensing of escrow agents; and amending RCW 18.44.011, 31.04.025, 18.44.457, and 18.44.201.

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

Sec. 1. RCW 18.44.011 and 2011 1st sp.s. c 21 s 45 are each amended to read as follows:

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

(1) "Committee" means the escrow advisory committee of the state of Washington created by RCW 18.44.500.

(2) "Controlling person" is any person who owns or controls ten percent or more of the beneficial ownership of any escrow agent, regardless of the form of business organization employed and regardless of whether such interest stands in such person's true name or in the name of a nominee.

(3) "Department" means the department of financial institutions.

(4) "Designated escrow officer" means any licensed escrow officer designated by a licensed escrow agent and approved by the director as the licensed escrow officer responsible for supervising that agent's handling of escrow transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by the agent.

(5) "Director" means the director of financial institutions, or his or her duly authorized representative.

(6) "Director of licensing" means the director of the department of licensing, or his or her duly authorized representative.

(7) "Escrow" means any transaction, except the acts of a qualified intermediary in facilitating an exchange under section 1031 of the internal revenue code, wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he or she is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof. "Escrow" includes the collection and processing of payments and the performance of related services by a third party on seller-financed loans secured by a lien on real or personal property but excludes vessel transfers.

(8) "Escrow agent" means any person engaged in the business of performing for compensation the duties of the third person referred to in subsection (7) of this section.

(9) "Licensed escrow agent" means any sole proprietorship, firm, association, partnership, or corporation holding a license as an escrow agent under the provisions of this chapter.

(10) "Licensed escrow officer" means any natural person handling escrow transactions and licensed as such by the director.

(11) "Person" means a natural person, firm, association, partnership, corporation, limited liability company, or the plural thereof, whether resident, nonresident, citizen, or not.

(12) "Split escrow" means a transaction in which two or more escrow agents act to effect and close an escrow transaction.

Sec. 2. RCW 31.04.025 and 2012 c 17 s 1 are each amended to read as follows:

(1) Each loan made to a resident of this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter, unless such loan is made under the authority of chapter 63.14 RCW.

(2) This chapter does not apply to the following:

(a) Any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions;

(b) Entities making loans under chapter 19.60 RCW (pawnbroking);

(c) Entities conducting transactions under chapter 63.14 RCW (retail installment sales of goods and services), unless the goods being sold in a retail installment sale consist of open loop prepaid access (prepaid access as defined in 31 C.F.R. Part 1010.100(ww) and not closed loop prepaid access as defined in 31 C.F.R. Part 1010.100(kkk));

(d) Entities making loans under chapter 31.45 RCW (check cashers and sellers);

(e) Any person making a loan primarily for business, commercial, or agricultural purposes unless the loan is secured by a lien on the borrower's primary residence;

(f) Any person making loans made to government or government agencies or instrumentalities or making loans to organizations as defined in the federal truth in lending act;

(g) Entities making loans under chapter 43.185 RCW (housing trust fund);

(h) Entities making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;

(i) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents; ~~((and))~~

(j) Entities making loans which are not residential mortgage loans under a credit card plan; ~~((and))~~

(k) Individuals employed by a licensed residential loan servicing company, unless so required by federal law or regulation; and

(l) Entities licensed under chapter 18.44 RCW that process payments on seller-financed loans secured by liens on real or personal property.

(3) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers. The director may adopt rules interpreting this section.

Sec. 3. RCW 18.44.457 and 2010 c 34 s 12 are each amended to read as follows:

(1) During the time that the director retains possession of the property and business of a licensee, the director has the power and authority to conduct the licensee's business and take any action on behalf of the licensee (~~((that the licensee could lawfully take on its own behalf))~~) to protect consumers, including but not limited to discontinuing any violations and unsafe or injurious practices, making good any deficiencies, and making claims against the licensee's fidelity bond, errors and omissions bond, or surety bond on behalf of the company.

(2) The director, the department, and its employees are not subject to liability for actions under this section and RCW 18.44.455 and no moneys from the department's fund may be required to be expended on behalf of the licensee or the licensee's clients, creditors, employees, shareholders, members, investors, or any other party or entity.

Sec. 4. RCW 18.44.201 and 2010 c 34 s 7 are each amended to read as follows:

(1) At the time of filing an application for an escrow agent license, or any renewal or reinstatement of an escrow agent license, the applicant shall provide satisfactory evidence to the director of having obtained the following as evidence of financial responsibility:

(a) A fidelity bond providing coverage in the aggregate amount of (~~two hundred thousand~~) one million dollars with a deductible no greater than ten thousand dollars covering each corporate officer, partner, escrow officer, and employee of the applicant engaged in escrow transactions;

(b) An errors and omissions policy issued to the escrow agent providing coverage in the minimum aggregate amount of fifty thousand dollars or, alternatively, cash or securities in the principal amount of fifty thousand dollars deposited in an approved depository on condition that they be available for payment of any claim payable under an equivalent errors and omissions policy in that amount and pursuant to rules and regulations adopted by the department for that purpose; and

(c) A surety bond in the amount of ten thousand dollars executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, unless the fidelity bond obtained by the licensee to satisfy the requirement in (a) of this subsection does not have a deductible. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of the applicant's or its employee's violation of this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation shall be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any penalties imposed on the licensee, including but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090.

(2) For the purposes of this section, a "fidelity bond" shall mean a primary commercial blanket bond or its equivalent satisfactory to the director and written by an insurer authorized to transact this line of business in the state of Washington. Such bond shall provide fidelity coverage for any fraudulent or dishonest acts committed by any one or more of the corporate officers, partners, sole practitioners, escrow officers, and employees of the applicant engaged in escrow transactions acting alone or in collusion with others. This bond shall be for the sole benefit of the escrow agent and under no circumstances whatsoever shall the bonding company be liable under the bond to any other party unless the corporate officer, partner, or sole practitioner commits a fraudulent or dishonest act, in which case, the bond shall be for the benefit of the harmed consumer. The bond shall name the escrow agent as obligee and shall protect the obligee against the loss of money or other real or personal property belonging to the obligee, or in which the obligee has a pecuniary interest, or for which the obligee is legally liable or held by the obligee in any capacity, whether the obligee is legally liable therefor or not. An escrow agent's bond must be maintained until all accounts

have been reconciled and the escrow trust account balance is zero. The bond may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent. In the event that the fidelity bond required under this subsection is not reasonably available, the director may adopt rules to implement a surety bond requirement.

(3) For the purposes of this section, an "errors and omissions policy" shall mean a group or individual insurance policy satisfactory to the director and issued by an insurer authorized to transact insurance business in the state of Washington. Such policy shall provide coverage for unintentional errors and omissions of the escrow agent and its employees, and may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent.

(4) Except as provided in RCW 18.44.221, the fidelity bond, surety bond, and the errors and omissions policy required by this section shall be kept in full force and effect as a condition precedent to the escrow agent's authority to transact escrow business in this state, and the escrow agent shall supply the director with satisfactory evidence thereof upon request.

Passed by the House February 25, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 65

[House Bill 1035]

TITLE INSURANCE—RATE FILINGS

AN ACT Relating to title insurance rate filings; amending RCW 48.03.010, 48.03.060, and 42.56.400; and adding new sections to chapter 48.29 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.29 RCW to read as follows:

(1) The commissioner must designate one statistical reporting agent to assist him or her in gathering information on title insurance policy issuance, business income, and expenses and making compilations thereof. The costs and expenses of the statistical reporting agent must be borne by all the authorized title insurance companies and title insurance agents licensed to conduct the business of title insurance in this state. The commissioner may adopt rules setting forth how the costs and expenses of the statistical reporting agent are to be paid and apportioned among the authorized title insurers and licensed title insurance agents.

(2) Upon designation of a statistical reporting agent by the commissioner under subsection (1) of this section all authorized title insurance companies and licensed title insurance agents must annually, by May 31st, file a report with the statistical reporting agent of their policy issuance, business income, expenses, and loss experience in this state. The report must be filed with the statistical reporting agent in a manner and form prescribed by the commissioner by rule, which must be consistent with the manner and form adopted by the national association of insurance commissioners.

(3) The statistical reporting agent must review the information filed with it for completeness, accuracy, and quality within one hundred twenty days of its receipt. All title insurance companies and title insurance agents must cooperate with the statistical reporting agent to verify the completeness, accuracy, and quality of the data that they submitted.

(4) Within thirty days after completing its review of the information for quality and accuracy, the statistical reporting agent must file the information for each title insurance company and title insurance agent, individually and in the aggregate, with the commissioner with a copy of the aggregate data from such statistical reporting agent provided to each title insurer and title insurance agent.

(5) The commissioner may adopt rules to implement and administer this section.

NEW SECTION. Sec. 2. A new section is added to chapter 48.29 RCW to read as follows:

(1) Information filed with the commissioner under section 1 of this act must be kept confidential and is not subject to public disclosure under chapter 42.56 RCW, unless the commissioner finds, after notice and hearing with the affected parties, it is in the public interest to disclose the information.

(2) The commissioner may share the information in subsection (1) of this section with the national association of insurance commissioners and its affiliates and subsidiaries, regulatory and law enforcement officials of other states and nations, the federal government, and international authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the information.

(3) This section does not prohibit the commissioner from sharing or publishing the information in an aggregate form.

Sec. 3. RCW 48.03.010 and 1993 c 462 s 43 are each amended to read as follows:

(1) The commissioner shall examine the affairs, transactions, accounts, records, documents, and assets of each authorized insurer as often as he or she deems advisable. The commissioner shall so examine each insurer holding a certificate of authority or certificate of registration not less frequently than every five years. Examination of an alien insurer may be limited to its insurance transactions in the United States. In scheduling and determining the nature, scope, and frequency of an examination, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the examiner's handbook adopted by the National Association of Insurance Commissioners and in effect when the commissioner exercises discretion under this section.

(2) As often as the commissioner deems advisable and at least once in five years, the commissioner shall fully examine each rating organization and examining bureau licensed in this state. As often as he or she deems it advisable the commissioner may examine each advisory organization, any statistical reporting agent designated by the commissioner under section 1 of this act, and each joint underwriting or joint reinsurance group, association, or organization.

(3) The commissioner shall in like manner examine each insurer or rating organization applying for authority to do business in this state.

(4) In lieu of making an examination under this chapter, the commissioner may accept a full report of the last recent examination of a nondomestic rating or advisory organization, or joint underwriting or joint reinsurance group, association or organization, as prepared by the insurance supervisory official of the state of domicile or of entry. In lieu of an examination under this chapter of a foreign or alien insurer licensed in this state, the commissioner may accept an examination report on the company as prepared by the insurance department for the company's state of domicile or port-of-entry state until January 1, 1994. Thereafter, an examination report may be accepted only if: (a) That insurance department was at the time of the examination accredited under the National Association of Insurance Commissioners' financial regulation standards and accreditation program; or (b) the examination was performed either under the supervision of an accredited insurance department or with the participation of one or more examiners employed by an accredited state insurance department who, after a review of the examination work papers and report, state under oath that the examination was performed in a manner consistent with the standards and procedures required by their insurance department.

(5) The commissioner may elect to accept and rely on an audit report made by an independent certified public accountant for the insurer in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his or her report of the examination.

(6) For the purposes of completing an examination of any company under this chapter, the commissioner may examine or investigate any managing general agent or any other person, or the business of any managing general agent or other person, insofar as that examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company.

Sec. 4. RCW 48.03.060 and 2011 c 47 s 4 are each amended to read as follows:

(1) Examinations within this state of any insurer or self-funded multiple employer welfare arrangement as defined in RCW 48.125.010 domiciled or having its home offices in this state, other than a title insurer, made by the commissioner or the commissioner's examiners and employees must, except as to fees, mileage, and expense incurred as to witnesses, be at the expense of the state.

(2) Every other examination, whatsoever, or any part of the examination of any person domiciled or having its home offices in this state requiring travel and services outside this state, must be made by the commissioner or by examiners designated by the commissioner and must be at the expense of the person examined; but a domestic insurer must not be liable for the compensation of examiners employed by the commissioner for such services outside this state.

(3) When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the cost of which must be borne by the person who is the subject of the examination, except as provided in subsection (1) of this section.

(4) The person examined and liable must reimburse the state upon presentation of an itemized statement for the actual travel expenses of the

commissioner's examiners, their reasonable living expense allowance, and their per diem compensation, including salary and the employer's cost of employee benefits, at a reasonable rate approved by the commissioner, incurred on account of the examination. Per diem salary and expenses for employees examining insurers domiciled outside the state of Washington must be established by the commissioner on the basis of the national association of insurance commissioner's recommended salary and expense schedule for zone examiners, or the salary schedule established by the state director of personnel, and the expense schedule established by the office of financial management, whichever is higher. A domestic title insurer must pay the examination expense and costs to the commissioner as itemized and billed by the commissioner.

The commissioner or the commissioner's examiners must not receive or accept any additional emolument on account of any examination.

(5) Nothing contained in this chapter limits the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action under the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination are prima facie evidence in any legal or regulatory action.

(6) The expense of the examination of any statistical reporting agent designated by the commissioner under section 1 of this act must be borne by and apportioned among all authorized title insurance companies and licensed title insurance agents in this state.

Sec. 5. RCW 42.56.400 and 2012 2nd sp.s. c 3 s 8 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b); ~~(and)~~

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; and

(22) Data, information, and documents obtained by the insurance commissioner under section 1 of this act.

Passed by the House March 7, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 66

[House Bill 1056]

UNEMPLOYMENT BENEFITS—CORPORATE OFFICERS

AN ACT Relating to not disqualifying certain corporate officers from receiving unemployment benefits; amending RCW 50.04.310; creating a new section; and providing an effective date.

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

Sec. 1. RCW 50.04.310 and 2007 c 146 s 5 are each amended to read as follows:

(1) An individual:

(a) Is "unemployed" in any week during which the individual performs no services and with respect to which no remuneration is payable to the individual, or in any week of less than full time work, if the remuneration payable to the individual with respect to such week is less than one and one-third times the individual's weekly benefit amount plus five dollars. The commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to such types of unemployment as the commissioner deems necessary.

~~((2) An individual)~~ (b) Is not "unemployed" ~~((during))~~ in any week which falls totally within a period during which the individual, pursuant to a collective bargaining agreement or individual employment contract, is employed full time in accordance with a definition of full time contained in the agreement or contract, and for which compensation for full time work is payable. This subsection may not be applied retroactively to an individual who had no guarantee of work at the start of such period and subsequently is provided additional work by the employer.

~~((3))~~ ~~(2)~~(a) An officer of a corporation who owns ten percent or more of the outstanding stock of the corporation, or a corporate officer who is a family member of an officer who owns ten percent or more of the outstanding stock of the corporation, whose claim for benefits is based on any wages with that corporation ~~(-is)~~:

~~((a))~~ (i) Is not "unemployed" in any week during the individual's term of office or ownership in the corporation, even if wages are not being paid ~~((;))~~, unless the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

~~((b))~~ (ii) Is "unemployed" in any week upon dissolution of the corporation or if the officer permanently resigns or is permanently removed from their appointment and responsibilities with that corporation in accordance with its articles of incorporation or bylaws or if the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

(b) As used in this subsection (2), "family member" means persons who are members of a family by blood or marriage as parents, stepparents, grandparents,

spouses, children, brothers, sisters, stepchildren, adopted children, or grandchildren.

NEW SECTION. Sec. 2. 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. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. This act takes effect December 29, 2013.

Passed by the House February 22, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 67

[House Bill 1109]

HIGHER EDUCATION—VETERANS—EARLY REGISTRATION

AN ACT Relating to early registration at institutions of higher education for eligible veterans and national guard members; adding a new section to chapter 28B.15 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 28B.15 RCW to read as follows:

(1) Beginning in the 2013-14 academic year, institutions of higher education that offer an early course registration period for any segment of the student population must have a process in place to offer students who are eligible veterans or national guard members early course registration as follows:

(a) New students who are eligible veterans or national guard members and who have completed all of their admission processes must be offered an early course registration period; and

(b) Continuing and returning former students who are eligible veterans or national guard members and who have met current enrollment requirements must be offered early course registration among continuing students with the same level of class standing or credit as determined by the attending institution and according to institutional policies.

(2) For the purposes of this section "eligible veterans or national guard members" has the definition in RCW 28B.15.621.

(3) This section expires August 1, 2022.

Passed by the House March 13, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.
Filed in Office of Secretary of State April 25, 2013.

CHAPTER 68

[House Bill 1112]

DEPARTMENT OF FISH AND WILDLIFE—USE OF SCIENCE—PUBLIC POLICY

AN ACT Relating to standards for the use of science to support public policy; adding a new section to chapter 34.05 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 it is critically important that scientific information used to inform public policy be of the highest quality and integrity. Furthermore, the legislature recognizes that a public benefit is derived from greater transparency as to what scientific information, data, or records are being used to inform public policy or relied upon in agency decision making.

(2) Therefore, in order to help ensure that agencies routinely use scientifically credible information in conducting their policy-making functions, it is the intent of the legislature to have those sources of scientific information reviewed and relied upon by agencies be identified in a clear and transparent way.

NEW SECTION. **Sec. 2.** A new section is added to chapter 34.05 RCW to read as follows:

(1) Before taking a significant agency action, the department of fish and wildlife must identify the sources of information reviewed and relied upon by the agency in the course of preparing to take significant agency action. Peer-reviewed literature, if applicable, must be identified, as well as any scientific literature or other sources of information used. The department of fish and wildlife shall make available on the agency's web site the index of records required under RCW 42.56.070(6) that are relied upon, or invoked, in support of a proposal for significant agency action.

(2)(a) For the purposes of this section, "significant agency action" means an act of the department of fish and wildlife that:

(i) Results in the development of a significant legislative rule as defined in RCW 34.05.328;

(ii) Results in the development of technical guidance, technical assessments, or technical documents that are used to directly support implementation of a state rule or state statute; or

(iii) Results in the development of fish and wildlife recovery plans.

(b) "Significant agency action" does not include rule making by the department of fish and wildlife associated with fishing and hunting rules.

(3) This section is not intended to affect agency action regarding individual permitting, compliance and enforcement decisions, or guidance provided by an agency to a local government on a case-by-case basis.

Passed by the House March 6, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.
Filed in Office of Secretary of State April 25, 2013.

CHAPTER 69

[House Bill 1113]

DEPARTMENT OF ECOLOGY—USE OF SCIENCE—PUBLIC POLICY

AN ACT Relating to standards for the use of science to support public policy; adding a new section to chapter 34.05 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 it is critically important that scientific information used to inform public policy be of the highest quality and integrity. Furthermore, the legislature recognizes that a public benefit is derived from greater transparency as to what scientific information, data, or records are being used to inform public policy or relied upon in agency decision making.

(2) Therefore, in order to help ensure that agencies routinely use scientifically credible information in conducting their policy-making functions, it is the intent of the legislature to have those sources of scientific information reviewed and relied upon by agencies be identified in a clear and transparent way.

NEW SECTION. Sec. 2. A new section is added to chapter 34.05 RCW to read as follows:

(1) This section applies only to the water quality and shorelands and environmental assistance programs within the department of ecology.

(2) Before taking a significant agency action, the department of ecology must identify the sources of information reviewed and relied upon by the agency in the course of preparing to take significant agency action. Peer-reviewed literature, if applicable, must be identified, as well as any scientific literature or other sources of information used. The department of ecology shall make available on the agency's web site the index of records required under RCW 42.56.070(6) that are relied upon, or invoked, in support of a proposal for significant agency action.

(3) For the purposes of this section, "significant agency action" means an act of the department of ecology that:

(a) Results in the development of a significant legislative rule as defined in RCW 34.05.328; or

(b) Results in the development of technical guidance, technical assessments, or technical documents that are used to directly support implementation of a state rule or state statute.

(4) This section is not intended to affect agency action regarding individual permitting, compliance and enforcement decisions, or guidance provided by an agency to a local government on a case-by-case basis.

Passed by the House February 22, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 70

[House Bill 1146]

CERTIFIED WATER RIGHT EXAMINERS—INSURANCE OR BOND

AN ACT Relating to certified water right examiner bonding requirements; and amending RCW 90.03.665.

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

Sec. 1. RCW 90.03.665 and 2010 c 285 s 7 are each amended to read as follows:

(1) The department shall establish and maintain a list of certified water right examiners. Certified water right examiners on the list are eligible to perform final proof examinations of permitted water uses leading to the issuance of a water right certificate under RCW 90.03.330. The list must be updated annually and must be made available to the public through written and electronic media.

(2) In order to qualify, an individual must be registered in Washington as a professional engineer, professional land surveyor, or registered hydrogeologist, or an individual must demonstrate at least five years of applicable experience to the department, or be a board member of a water conservancy board. Qualified individuals must also pass a written examination prior to being certified by the department. Such an examination must be administered by either the department or an entity formally approved by the department. Each certified water right examiner must demonstrate knowledge and competency regarding:

- (a) Water law in the state of Washington;
- (b) Measurement of the flow of water through open channels and enclosed pipes;
- (c) Water use and water level reporting;
- (d) Estimation of the capacity of reservoirs and ponds;
- (e) Irrigation crop water requirements;
- (f) Aerial photo interpretation;
- (g) Legal descriptions of land parcels;
- (h) Location of land and water infrastructure through the use of maps and global positioning;
- (i) Proper construction and sealing of well bores; and
- (j) Other topics related to the preparation and certification of water rights in Washington state.

(3) Except as provided in subsection (9) of this section, upon completion of a water appropriation and putting water to beneficial use, in order to receive a final water right certificate, the permit holder must secure the services of a certified water right examiner who has been tested and certified by the department. The examiner shall carry out a final examination of the project to verify its completion and to determine and document for the permit holder and the department the amount of water that has been appropriated for beneficial use, the location of diversion or withdrawal and conveyance facilities, and the actual place of use. The examiner shall take measurements or make estimates of the maximum diversion or withdrawal, the capacity of water storage facilities, the acreage irrigated, the type and number of residences served, the type and number of stock watered, and other information relevant to making a final determination of the amount of water beneficially used. The examiner shall take photographs of the facilities to document the use or uses of water and the photographs must

be submitted with the examiner's report to the department. The department shall specify the format and required content of the reports and may provide a form for that purpose.

(4) The department may suspend or revoke a certification based on poor performance, malfeasance, failure to acquire continuing education credits, or excessive complaints from the examiner's customers. The department may require the retesting of an examiner. The department may interview any examiner to determine whether the person is qualified for this work. The department shall spot-check the work of examiners to ensure that the public is being competently served. Any person aggrieved by an order of the department including the granting, denial, revocation, or suspension of a certificate issued by the department under this chapter may appeal pursuant to chapter 43.21B RCW.

(5) The decision regarding whether to issue a final water right certificate is solely the responsibility and function of the department.

(6) The department shall make its final decision under RCW 90.03.330 within sixty days of the date of receipt of the proof of examination from the certified water right examiner, unless otherwise requested by the applicant or returned for correction by the department. The department may return an initial proof of examination for correction within thirty days of the department's receipt of such initial proof from a certified water right examiner. Such proof must be returned to both the certified water right examiner and the applicant. Within thirty days of the department's receipt of such returned proof from the certified water right examiner, the department shall make its final decision under RCW 90.03.330, unless otherwise requested by the applicant.

(7) Each certified water right examiner must complete eight hours annually of qualifying continuing education in the water resources field. The department shall determine and specify the qualifying continuing education and shall inform examiners of the opportunities. The department shall track whether examiners are current in their continuing education and may suspend the certification of an examiner who has not complied with the continuing education requirement.

(8) Each certified water right examiner must ~~((be bonded for at least fifty thousand dollars))~~ furnish evidence of insurance or financial responsibility in a form acceptable to the department.

(9) The department may waive the requirement to secure the services of a certified water right examiner in situations in which the department has already conducted a final proof of examination or finds it unnecessary for purposes of issuing a certificate of water right.

(10) The department shall establish and collect fees for the examination, certification, and renewal of certification of water right examiners. Revenue collected from these fees must be deposited into the water rights processing account created in RCW 90.03.650. Pursuant to RCW 43.135.055, the department is authorized to set fees for examination, certification, and renewal of certification for water right examiners.

(11) The department may adopt rules appropriate to carry out the purposes of this section.

Passed by the House March 4, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 71

[House Bill 1182]

LEGEND DRUG ACT—PHARMACISTS

AN ACT Relating to including pharmacists in the legend drug act; and reenacting and amending RCW 69.41.030.

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

Sec. 1. RCW 69.41.030 and 2011 1st sp.s. c 15 s 79 and 2011 c 336 s 837 are each reenacted and amended to read as follows:

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the board of pharmacy and approved by a practitioner authorized to prescribe drugs, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed advanced registered nurse practitioner, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

Passed by the House March 11, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 72

[House Bill 1209]

CHRISTMAS TREE GROWERS—LICENSURE

AN ACT Relating to extending the program establishing Christmas tree grower licensure; and amending 2007 c 335 s 19 (uncodified).

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

Sec. 1. 2007 c 335 s 19 (uncodified) is amended to read as follows:

This act expires July 1, (~~2014~~) 2020.

Passed by the House February 22, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 73

[House Bill 1213]

SOCIAL WORKERS—LICENSING

AN ACT Relating to social worker licensing; amending RCW 18.225.010, 18.225.090, 18.225.145, and 43.70.442; and adding new sections to chapter 18.225 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.225 RCW to read as follows:

The legislature finds that licensed advanced social workers and licensed independent clinical social workers represent different specializations within the social work profession, with each license signifying the highest degree of licensure as it pertains to each specialty. The legislature further finds that practitioners in each specialty exercise independent judgment and operate independently within their area of practice.

Therefore, for purposes of job classification, licensed advanced social workers and licensed independent clinical social workers licensed under this chapter shall both be considered the top tier of licensure for the profession.

Sec. 2. RCW 18.225.010 and 2008 c 135 s 11 are each amended to read as follows:

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

(1) "Advanced social work" means the application of social work theory and methods, including:

(a) Emotional and biopsychosocial assessment((?));

(b) Psychotherapy under the supervision of a licensed independent clinical social worker, psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or other mental health professionals as may be defined by rules adopted by the secretary;

(c) Case management((?));

(d) Consultation((?));

(e) Advocacy((?));

(f) Counseling((?)); (~~and~~) or

(g) Community organization.

(2) "Applicant" means a person who completes the required application, pays the required fee, is at least eighteen years of age, and meets any background check requirements and uniform disciplinary act requirements.

(3) "Associate" means a prelicensure candidate who has a graduate degree in a mental health field under RCW 18.225.090 and is gaining the supervision and supervised experience necessary to become a licensed independent clinical social worker, a licensed advanced social worker, a licensed mental health counselor, or a licensed marriage and family therapist.

(4) "Committee" means the Washington state mental health counselors, marriage and family therapists, and social workers advisory committee.

(5) "Department" means the department of health.

(6) "Disciplining authority" means the department.

(7) "Independent clinical social work" means the diagnosis and treatment of emotional and mental disorders based on knowledge of human development, the causation and treatment of psychopathology, psychotherapeutic treatment practices, and social work practice as defined in advanced social work. Treatment modalities include but are not limited to diagnosis and treatment of individuals, couples, families, groups, or organizations.

(8) "Marriage and family therapy" means the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of relationships, including marriage and family systems. Marriage and family therapy involves the professional application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, and families for the purpose of treating such diagnosed nervous and mental disorders. The practice of marriage and family therapy means the rendering of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.

(9) "Mental health counseling" means the application of principles of human development, learning theory, psychotherapy, group dynamics, and etiology of mental illness and dysfunctional behavior to individuals, couples, families, groups, and organizations, for the purpose of treatment of mental disorders and promoting optimal mental health and functionality. Mental health counseling also includes, but is not limited to, the assessment, diagnosis, and treatment of mental and emotional disorders, as well as the application of a wellness model of mental health.

(10) "Secretary" means the secretary of health or the secretary's designee.

Sec. 3. RCW 18.225.090 and 2008 c 141 s 1 are each amended to read as follows:

(1) The secretary shall issue a license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following education and experience requirements for the applicant's practice area.

(a) Licensed social work classifications:

(i) Licensed advanced social worker:

(A) Graduation from a master's or doctorate social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of three thousand two hundred hours with supervision by an approved supervisor who has been licensed for at least two years. Of those supervised hours:

(I) At least ninety hours must include direct supervision as specified in this subsection by a licensed independent clinical social worker, a licensed advanced social worker, or an equally qualified licensed mental health professional. Of those hours of directly supervised experience:

(1) At least fifty hours must include supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be supervised by an equally qualified licensed mental health practitioner; and

(2) At least forty hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision;

(II) Distance supervision is limited to forty supervision hours; and

(III) Eight hundred hours must be in direct client contact; and

(D) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(ii) Licensed independent clinical social worker:

(A) Graduation from a master's or doctorate level social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of four thousand hours of experience, over a ~~((three-year))~~ period of not less than three years, with supervision by an approved supervisor who has been licensed for at least two years and, as specified in this subsection, may be either a licensed independent clinical social worker who has had at least one year of experience in supervising the clinical social work of others or an equally qualified licensed mental health practitioner. Of those supervised hours:

(I) At least one thousand hours must be direct client contact;

(II) Hours of direct supervision must include:

(1) At least one hundred thirty hours by a licensed mental health practitioner;

(2) At least seventy hours of supervision with a licensed independent clinical social worker meeting the qualifications under this subsection

(1)(a)(ii)(C); the other sixty hours may be supervised by an equally qualified licensed mental health practitioner; and

(3) At least sixty hours must be in one-to-one supervision and seventy hours may be in one-to-one supervision or group supervision; and

(III) Distance supervision is limited to sixty supervision hours; and

(D) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(b) Licensed mental health counselor:

(i) Graduation from a master's or doctoral level educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards;

(ii) Successful completion of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of thirty-six months full-time counseling or three thousand hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner, in an approved setting. The three thousand hours of required experience includes a minimum of one hundred hours spent in immediate supervision with the qualified licensed mental health counselor, and includes a minimum of one thousand two hundred hours of direct counseling with individuals, couples, families, or groups; and

(iv) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(c) Licensed marriage and family therapist:

(i) Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards;

(ii) Successful passage of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of two calendar years of full-time marriage and family therapy. Of the total supervision, one hundred hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other one hundred hours may be with an equally qualified licensed mental health practitioner. Total experience requirements include:

(A) A minimum of three thousand hours of experience, one thousand hours of which must be direct client contact; at least five hundred hours must be gained in diagnosing and treating couples and families; plus

(B) At least two hundred hours of qualified supervision with a supervisor. At least one hundred of the two hundred hours must be one-on-one supervision, and the remaining hours may be in one-on-one or group supervision.

Applicants who have completed a master's program accredited by the commission on accreditation for marriage and family therapy education of the American association for marriage and family therapy may be credited with five hundred hours of direct client contact and one hundred hours of formal meetings with an approved supervisor; and

(iv) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(2) The department shall establish by rule what constitutes adequate proof of meeting the criteria. Only rules in effect on the date of submission of a completed application of an associate for her or his license shall apply. If the rules change after a completed application is submitted but before a license is issued, the new rules shall not be reason to deny the application.

(3) In addition, applicants shall be subject to the grounds for denial of a license or issuance of a conditional license under chapter 18.130 RCW.

Sec. 4. RCW 18.225.145 and 2008 c 135 s 13 are each amended to read as follows:

(1) The secretary shall issue an associate license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements for the applicant's practice area and submits a declaration that the applicant is working toward full licensure in that category:

(a) Licensed social worker associate—advanced or licensed social worker associate—independent clinical: Graduation from a master's degree or doctoral degree educational program in social work accredited by the council on social work education and approved by the secretary based upon nationally recognized standards.

(b) Licensed mental health counselor associate: Graduation from a master's degree or doctoral degree educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards.

(c) Licensed marriage and family therapist associate: Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards.

(2) Associates may not provide independent social work, mental health counseling, or marriage and family therapy for a fee, monetary or otherwise. Associates must work under the supervision of an approved supervisor.

(3) Associates shall provide each client or patient, during the first professional contact, with a disclosure form according to RCW 18.225.100, disclosing that he or she is an associate under the supervision of an approved supervisor.

(4) The department shall adopt by rule what constitutes adequate proof of compliance with the requirements of this section.

(5) Applicants are subject to the denial of a license or issuance of a conditional license for the reasons set forth in chapter 18.130 RCW.

(6) An associate license may be renewed no more than ~~(four)~~ six times, provided that the applicant for renewal has successfully completed eighteen hours of continuing education in the preceding year. Beginning with the second renewal, at least six of the continuing education hours in the preceding two years must be in professional ethics.

NEW SECTION. Sec. 5. A new section is added to chapter 18.225 RCW to read as follows:

To assess whether limitations on associate license renewals may be limiting the number of people able to complete the licensing process within statutory deadlines, the secretary shall report to the appropriate committees of the

legislature on October 1st of each year, beginning in 2014 and ending in 2020, the number of associate licenses that have been renewed four, five, or six times.

Sec. 6. RCW 43.70.442 and 2012 c 181 s 2 are each amended to read as follows:

(1)(a) Beginning January 1, 2014, each of the following professionals certified or licensed under Title 18 RCW shall, at least once every six years, complete a training program in suicide assessment, treatment, and management that is approved, in rule, by the relevant disciplining authority:

- (i) An adviser or counselor certified under chapter 18.19 RCW;
- (ii) A chemical dependency professional licensed under chapter 18.205 RCW;
- (iii) A marriage and family therapist licensed under chapter 18.225 RCW;
- (iv) A mental health counselor licensed under chapter 18.225 RCW;
- (v) An occupational therapy practitioner licensed under chapter 18.59 RCW;
- (vi) A psychologist licensed under chapter 18.83 RCW; ~~((and))~~
- (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.

(2)(a)~~((+))~~ Except as provided in ~~((a)(+))~~ (b) of this subsection, a professional listed in subsection (1)(a) of this section must complete the first training required by this section during the first full continuing education reporting period after June 7, 2012, or 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 on or after June 7, 2012, 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 a six-hour training program in suicide assessment, treatment, and management that:

~~((A))~~ (i) Was completed no more than six years prior to the application for initial licensure; and

~~((B))~~ (ii) Is listed on the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center.

(3) The hours spent completing a training program in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education or continuing competency requirements for each profession.

(4)(a) A disciplining authority may, by rule, specify minimum training and experience that is sufficient to exempt a professional from the training requirements in subsection (1) of this section.

(b) The board of occupational therapy practice may exempt occupational therapists from the training requirements of subsection (1) of this section by specialty, if the specialty in question has only brief or limited patient contact.

(5)(a) The secretary and the disciplining authorities shall work collaboratively to develop a model list of training programs in suicide assessment, treatment, and management.

(b) When developing the model list, the secretary and the disciplining authorities shall:

(i) Consider suicide assessment, treatment, and management training programs of at least six hours in length listed on the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center; and

(ii) Consult with public and private institutions of higher education, experts in suicide assessment, treatment, and management, and affected professional associations.

(c) The secretary and the disciplining authorities shall report the model list of training programs to the appropriate committees of the legislature no later than December 15, 2013.

(6) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under chapter 18.130 RCW.

(7) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

(8) For purposes of this section:

(a) "Disciplining authority" has the same meaning as in RCW 18.130.020.

(b) "Training program in suicide assessment, treatment, and management" means an empirically supported training program approved by the appropriate disciplining authority that contains the following elements: Suicide assessment, including screening and referral, suicide treatment, and suicide management. The disciplining authority may approve a training program that excludes one of the elements if the element is inappropriate for the profession in question based on the profession's scope of practice. A training program that includes only screening and referral elements shall be at least three hours in length. All other training programs approved under this section shall be at least six hours in length.

(9) 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.

(10) An employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

Passed by the House February 18, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 74

[Substitute House Bill 1307]

PROTECTION ORDERS—SEXUAL ASSAULT

AN ACT Relating to sexual assault protection orders; amending RCW 7.90.040, 7.90.050, 7.90.120, 7.90.140, and 7.90.170; and adding new sections to chapter 7.90 RCW.

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

Sec. 1. RCW 7.90.040 and 2006 c 138 s 4 are each amended to read as follows:

(1) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of nonconsensual sexual conduct or nonconsensual sexual penetration committed by the respondent.

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

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

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter. The appointment shall be at no cost to either party.

(5) Jurisdiction of the courts over proceedings under this chapter shall be the same as jurisdiction over domestic violence protection orders under RCW 26.50.020(5).

(6) An action under this chapter shall be filed in the county or the municipality where the petitioner resides.

Sec. 2. RCW 7.90.050 and 2006 c 138 s 6 are each amended to read as follows:

Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further nonconsensual sexual conduct or nonconsensual sexual penetration. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. ~~((Except as provided in RCW 7.90.110;))~~ Personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in section 6 of this act or service by mail as provided in section 7 of this act. The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or service by mail unless the petitioner requests additional time to attempt personal service. If the court permits service by publication or service by mail, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte temporary sexual assault order pending the hearing as provided in RCW 7.90.110.

Sec. 3. RCW 7.90.120 and 2006 c 138 s 13 are each amended to read as follows:

(1)(a) An ex parte temporary sexual assault protection order shall be effective for a fixed period not to exceed fourteen days. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or service by mail is permitted. If the court permits service by publication or service by mail, the court shall also reissue the ex parte temporary protection order not to exceed another twenty-four days from the date of reissuing the ex parte protection order. Except as provided in RCW 7.90.050, or section 6 or 7 of this act, the respondent shall be personally served with a copy of the ex parte temporary sexual assault protection order along with a copy of the petition and notice of the date set for the hearing.

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

(2) Except as otherwise provided in this section or RCW 7.90.150, a final sexual assault protection order shall be effective for a fixed period of time, not to exceed two years.

~~(3) (Any ex parte temporary or final sexual assault protection order may be renewed one or more times, as required. The petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. If the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested renewal. Renewals may be granted only in open court.~~

~~(4))~~ Any sexual assault protection order which would expire on a court holiday shall instead expire at the close of the next court business day.

~~((5))~~ (4) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a sexual assault protection order undermines the purposes of this chapter. This section shall not be construed as encouraging that practice.

NEW SECTION. Sec. 4. A new section is added to chapter 7.90 RCW to read as follows:

(1) Any ex parte temporary or final sexual assault protection order may be renewed one or more times, as required.

(2) The petitioner may apply for renewal of the order by filing a motion for renewal at any time within the three months before the order expires.

(3) If the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested renewal.

(4)(a) If the motion is contested, upon receipt of the motion, the court shall order that a hearing be held not later than fourteen days from the date of the order.

(b) The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further nonconsensual sexual conduct or nonconsensual

sexual penetration. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing.

(c) The respondent shall be personally served not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in section 6 of this act or service by mail as provided in section 7 of this act. The court shall not require more than two attempts at obtaining personal service and shall permit service by publication or service by mail unless the petitioner requests additional time to attempt personal service. If the court permits service by publication or service by mail, the court shall set the hearing date not later than twenty-four days from the date of the order.

(5) Renewals may be granted only in open court.

Sec. 5. RCW 7.90.140 and 2006 c 138 s 15 are each amended to read as follows:

(1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) If the court previously entered an order allowing service of the notice of hearing and temporary order of protection by publication under section 6 of this act or service by mail under section 7 of this act, the court may permit service by publication or service by mail of the order of protection issued under this chapter. Service by publication must comply with the requirements of section 6 of this act and service by mail must comply with the requirements of section 7 of this act. The court order must state whether the court permitted service by publication or service by mail.

NEW SECTION. Sec. 6. A new section is added to chapter 7.90 RCW to read as follows:

(1) The court may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal peace officer files an affidavit stating that the officer was unable to complete personal service upon the respondent. The affidavit must describe the number and type of attempts the officer made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the respondent is avoiding service;

(c) The server has deposited a copy of the summons, in substantially the form prescribed in subsection (3) of this section, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that he or she does not know the respondent's address; and

(d) The court finds reasonable grounds exist to believe the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome.

(2) If the court orders service by publication, it shall also reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order that service by publication be provided.

(3) The publication must be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons must not be made until the court orders service by publication under this section. Service of the summons is considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons must contain the date of the first publication, and must require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons must also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons must be essentially in the following form:

In the court of the state of
Washington for the county of

., Petitioner
vs. No.
., Respondent

The state of Washington to
(respondent):

You are hereby summoned to appear on the day of, (year), at a.m./p.m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of the sexual assault protection order act, chapter 7.90 RCW, for a minimum of one year from the date you are required to appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order). A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

Petitioner

NEW SECTION. Sec. 7. A new section is added to chapter 7.90 RCW to read as follows:

(1) In circumstances justifying service by publication under section 6 of this act, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication and that the serving party is unable to afford the cost of service by publication, the court may order that service be made by mail. The service must be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the order and other process to the party to be served at his or her last known address or any other address determined by the court to be appropriate. Two copies must be mailed, postage prepaid, one by ordinary first-class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(2) Proof of service under this section must be consistent with court rules for civil proceedings.

(3) Service under this section may be used in the same manner and has the same jurisdictional effect as service by publication for purposes of this chapter. Service is deemed complete upon the mailing of the two copies as prescribed in this section.

NEW SECTION. Sec. 8. A new section is added to chapter 7.90 RCW to read as follows:

Following completion of service by publication as provided in section 6 of this act or service by mail as provided in section 7 of this act, if the respondent fails to appear at the hearing, the court may issue an order of protection as provided in RCW 7.90.140. That order must be served pursuant to RCW 7.90.140 and forwarded to the appropriate law enforcement agency pursuant to RCW 7.90.160.

Sec. 9. RCW 7.90.170 and 2006 c 138 s 18 are each amended to read as follows:

~~(1) Upon ((application with notice to all parties and after a hearing)) receipt of a motion to modify the terms of an existing sexual assault protection order, the court ((may modify the terms of an existing sexual assault protection order))~~

shall order that a hearing be held not later than fourteen days from the date of the order. The respondent shall be personally served not less than five days before the hearing. If timely service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in section 6 of this act or service by mail as provided in section 7 of this act. If the court permits service by mail or service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made, the court shall grant an ex parte order of protection as provided in RCW 7.90.110. The court may modify the protection order for another fixed time period or may enter a permanent order as provided in RCW 7.90.120.

(2) In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the computer-based criminal intelligence information system, or if the order is terminated, remove the order from the computer-based criminal intelligence information system.

Passed by the House February 25, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 75

[House Bill 1311]

UNEMPLOYMENT COMPENSATION—ELECTIVE COVERAGE—MARITIME SERVICE

AN ACT Relating to making coverage of certain maritime service elective for purposes of unemployment compensation; amending RCW 50.24.160 and 50.04.170; and creating a new section.

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

Sec. 1. RCW 50.24.160 and 2007 c 146 s 6 are each amended to read as follows:

Except as provided in RCW 50.04.165, any employing unit for which services that do not constitute employment as defined in this title are performed may file with the commissioner a written election that all such services performed by any distinct class or group of individuals or by all individuals in its employment in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this title for at least two calendar years. Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this title on and after the date stated in the approval. Services covered under this section shall cease to be deemed employment as of January 1st of any calendar year subsequent to the two-calendar year period, only if the employing unit files with the commissioner before January 15th of that year a written application for termination of coverage. Services for which an employing unit may elect

coverage include, but are not limited to, maritime service as described in RCW 50.04.170.

Sec. 2. RCW 50.04.170 and 1949 c 214 s 3 are each amended to read as follows:

(1)(a) Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" ((~~shall~~)) includes an individual's entire service as an officer or member of a crew of an American vessel wherever performed and whether in intrastate or interstate or foreign commerce, if the employer maintains within this state at the beginning of the pay period an operating office from which the operations of the vessel are ordinarily and regularly supervised, managed, directed, and controlled.

(b) The term "employment" ((~~shall~~)) does not include:

(i) Services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat under which:

(A) The individual does not receive any cash remuneration except as provided in (b)(i)(B) and (C) of this subsection;

(B) The individual receives a share of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch; and

(C) The amount of the individual's share depends on the amount of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life, but only if the operating crew of the boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat, is normally made up of fewer than ten individuals.

(ii) Services performed as an officer or member of the crew of a vessel not an American vessel and services on or in connection with an American vessel under a contract of service which is not entered into within the United States and during the performance of which the vessel does not touch at a port of the United States.

(2) For the purposes of this section, "American vessel"((~~;~~)) means any vessel documented or numbered under the laws of the United States((~~;~~)), and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

NEW SECTION. Sec. 3. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state 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. 4. 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 March 5, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 76

[Engrossed Substitute House Bill 1325]

FINANCIAL INSTITUTIONS

AN ACT Relating to banks, trust companies, savings banks, and savings associations, and making technical amendments to the laws governing the department of financial institutions; amending RCW 30.04.010, 30.04.070, 30.04.111, 30.04.215, 30.04.217, 30.04.240, 30.04.260, 30.04.280, 30.08.140, 30.08.140, 30.08.155, 30.38.010, 30.38.015, 30.46.020, 30.46.030, 30.46.040, 30.46.050, 30.46.060, 30.46.070, 30.46.080, 30.46.090, 32.04.030, 32.08.140, 32.08.140, 32.08.142, 32.08.153, 32.50.030, 33.12.012, 33.24.010, and 33.32.060; amending 2011 c 303 s 9 (uncodified); adding a new section to chapter 32.04 RCW; repealing RCW 30.08.095, 32.08.146, 32.08.155, and 32.08.1551; providing a contingent effective date; and providing a contingent expiration date.

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

Sec. 1. RCW 30.04.010 and 2010 c 88 s 3 are each amended to read as follows:

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

(1) "Adequately capitalized," "critically undercapitalized," "significantly undercapitalized," "undercapitalized," and "well-capitalized," respectively, have meanings consistent with the definitions these same terms have under the prompt corrective action provisions of the federal deposit insurance act, 12 U.S.C. Sec. 1831o, and applicable enabling rules of the federal deposit insurance corporation.

(2) "Bank," unless a different meaning appears from the context, means any corporation organized under the laws of this state engaged in banking, other than a trust company, savings association, or a mutual savings bank.

(3) "Bank holding company" means a bank holding company under authority of the federal bank holding company act.

(4) "Banking" includes the soliciting, receiving or accepting of money or its equivalent on deposit as a regular business.

(5) "Branch" means any established office of deposit, domestic or otherwise, maintained by any bank or trust company other than its head office. "Branch" does not mean a machine permitting customers to leave funds in storage or communicate with bank employees who are not located at the site of the machine, unless employees of the bank at the site of the machine take deposits on a regular basis. An office or facility of an entity other than the bank shall not be deemed to be established by the bank, regardless of any affiliation, accommodation arrangement, or other relationship between the other entity and the bank.

(6) "Department" means the Washington state department of financial institutions.

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

(8) "Financial holding company" means a financial services holding company under authority of the federal bank holding company act.

(9) "Foreign bank" and "foreign banker" includes:

(a) Every corporation not organized under the laws of the territory or state of Washington doing a banking business, except a national bank;

(b) Every unincorporated company, partnership or association of two or more individuals organized under the laws of another state or country, doing a banking business;

(c) Every other unincorporated company, partnership or association of two or more individuals, doing a banking business, if the members thereof owning a majority interest therein or entitled to more than one-half of the net assets thereof are not residents of this state; or

(d) Every nonresident of this state doing a banking business in his or her own name and right only.

(10) "Holding company" means a bank holding company or financial holding company of a bank organized under chapter 30.08 RCW or converted to a state bank under chapter 30.49 RCW, or a holding company of a trust company authorized to do business under this title.

(11) "Law firm" means a partnership, professional limited liability corporation, professional limited liability partnership, or similar entity whose partners, members, or shareholders are exclusively attorneys-at-law.

~~(12)~~ "Person" (~~includes a~~) means an individual or an entity including, but not limited to, a sole proprietorship, firm, association, general partnership or joint venture, limited liability company, limited liability partnership, trust, or corporation, or the plural thereof, whether resident, nonresident, citizen, or not.

~~((+2))~~ (13) The term "trust business" shall include the business of doing any or all of the things specified in RCW 30.08.150 (2), (3), (4), (5), (6), (7), (8), (9), (10) and (11).

~~((+3))~~ (14) "Trust company," unless a different meaning appears from the context, means any corporation or limited liability company, other than a bank, savings bank, or savings association, organized and chartered as a trust company under this title for the purpose of engaging in trust business.

Sec. 2. RCW 30.04.070 and 2010 c 88 s 8 are each amended to read as follows:

(1) In order to cover the costs of the operation of the department's division of banks and to establish and maintain a reasonable reserve for the division of banks, the department may charge and collect the costs of examination, filing and other service fees, and semiannual charges for recoupment of nondirect expenses related to the examination of financial institutions regulated by the department, as provided for in this section.

(2) The director shall collect from each bank, savings bank, trust company, savings association, holding company under this title (~~(30 RCW)~~), holding company under Title 32 RCW, business development company under chapter 31.24 RCW, agricultural lender under chapter 31.35 RCW, and small business lender under chapter 31.40 RCW~~((:))~~;

(a) For each examination of its condition the estimated actual cost of such examination; and

(b) For services in relation to required filings, applications, requests for waiver, investigations, approvals, determinations, certifications, agreements, actions, directives, and orders made by or to the director.

(3) In addition to collecting the estimated actual cost of examination and other fees authorized by subsection (2) of this section, the director may collect a semiannual charge for recoupment of nondirect expenses related to the examination of a bank or trust company under this title, a savings bank under Title 32 RCW, and a savings association under Title 33 RCW, based upon the assets of the bank, savings bank, or savings association, or assets under management of the trust company, which shall be computed upon the asset value reflected in the institution's most recent report of condition. The rate must be the same for banks, savings banks, and savings associations, and there may be a separate rate for trust companies that must be the same for all trust companies.

(4) Every bank or trust company, savings bank, savings association, holding company, business development company, state agricultural lender, or state small business lender shall also pay to the secretary of state for filing any instrument the same fees as are required of general corporations for filing corresponding instruments, and also the same license fees as are required of general corporations.

(5) The director shall establish, set, and adjust by rule the amount of all fees and charges authorized by subsections (2) and (3) of this section.

Sec. 3. RCW 30.04.111 and 2010 c 88 s 10 are each amended to read as follows:

(1) The total loans and extensions of credit by a bank or trust company to a person outstanding at any one time shall not exceed twenty percent of the capital and surplus of such bank or trust company. ~~((The following loans and extensions of credit shall not be subject to this limitation:~~

~~(a) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse;~~

~~(b) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or treasury bills of the United States or by other such obligations wholly guaranteed as to principal and interest by the United States;~~

~~(c) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States;~~

~~(d) Loans or extensions of credit fully secured by a segregated deposit account or accounts in the lending bank;~~

~~(e) Loans or extensions of credit secured by collateral having a readily ascertained market value of at least one hundred fifteen percent of the outstanding amount of the loan or extension of credit;~~

~~(f) Loans or extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of thirty-five percent of capital and surplus in addition to the general limitations, if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds one hundred fifteen percent of the outstanding amount of the loan or extension of~~

credit. The staples shall be fully covered by insurance whenever it is customary to insure the staples;

(g) The purchase of bankers' acceptances of the kind described in section 13 of the federal reserve act and issued by other banks shall not be subject to any limitation based on capital and surplus;

(h) The unpaid purchase price of a sale of bank property, if secured by such property)) A loan or extension of credit made by a bank or trust company does not violate this section if the loan or extension of credit would qualify for an exception to the lending limit for a national bank under rules adopted by the United States office of the comptroller of the currency, or successor federal agency with authority over national banks and federal savings associations.

(2) For the purposes of this section, (~~"capital" shall include the amount of common stock outstanding and unimpaired, the amount of preferred stock outstanding and unimpaired, and capital notes or debentures issued pursuant to chapter 30.36 RCW.~~

(3) For the purposes of this section, "surplus" shall include capital surplus, reflecting the amounts paid in excess of the par or stated value of capital stock, or amounts contributed to the bank other than for capital stock, and undivided profits.

(4) For the purposes of this section, "person" includes an individual, sole proprietor, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization)) the terms "borrower," "capital and surplus," "derivative transaction," "loans and extensions of credit," and "person" shall have the same meaning as those terms are defined in section 32.2 of Title 12 of the United States code of federal regulations, 12 C.F.R. Sec. 32.2, except that "loans and extensions of credit" also includes repurchase agreements, reverse repurchase agreements, securities lending transactions, or securities borrowing transactions between a bank and a borrower if the federal deposit insurance corporation requires such treatment for a state insured bank or the board of governors of the federal reserve system requires such treatment for member state banks.

((~~5~~)) (3) The director may prescribe rules to administer and carry out the purposes of this section, including without limitation rules (a) to define or further define terms used in this section (~~and~~), (b) to establish limits or requirements other than those specified in this section for particular classes or categories of loans (~~or~~) and extensions of credit, (~~and~~) (c) to determine when a loan putatively made to a person shall, for purposes of this section, be attributed to another person, (d) to set standards for computation of time in relation to determining limits on loans and extensions of credit, and (e) to implement and incorporate other changes in limits on loans and extensions of credit necessary to conform to federal statute and rule required or otherwise authorized by this section. In adopting the rules, the director shall be guided by rulings of the United States comptroller of the currency, or successor federal banking regulator, that govern (~~lending~~) limits on loans and extensions of credit applicable to national banks and federal savings associations. In lieu of the adoption by the department of a rule applicable to specific types of transactions, a bank, unless otherwise approved by the director, shall conform to all applicable rulings of the comptroller of the currency, or successor federal

banking regulator, which ~~((a))~~ (i) relate to national banks and federal savings associations, ~~((b))~~ (ii) govern such specific types of transactions or circumstances, and ~~((c))~~ (iii) are consistent with this section and the department's adopted rules.

(4)(a) A loan or extension of credit that was within the limit on loans and extensions of credit when made is not a violation but will be treated as nonconforming if the loan or extension of credit is no longer in conformity with the bank's or trust company's limit on loans and extensions of credit because:

(i) The bank's or trust company's capital has declined, borrowers have subsequently merged or formed a common enterprise, lenders have merged, or the limit on loans and extensions of credit or capital rules have changed; or

(ii) Collateral securing the loan or extension of credit, in order to satisfy the requirements of an exception to the limit, has declined in value.

(b) A bank or trust company shall make reasonable efforts to bring a loan or extension of credit that is nonconforming under (a)(i) of this subsection into conformity with the bank's or trust company's limit on loans and extensions of credit unless to do so would be inconsistent with safe and sound banking practices.

(c) A bank or trust company must bring a loan or extension of credit that is nonconforming under (a)(ii) of this subsection into conformity with the bank's limit on loans and extensions of credit within thirty calendar days, except when judicial proceedings, regulatory actions, or other extraordinary circumstances beyond the bank's or trust company's control prevent the bank or trust company from taking action.

(d) Notwithstanding any provision of this subsection (4), the director may by rule or interpretation prescribe standards for treatment of nonconforming extensions of credit that are derivatives transactions, repurchase agreements, reverse repurchase agreements, securities lending transactions, or securities borrowing transactions, and may, if required for state insured banks or member state banks, rely upon rules or interpretations of the federal deposit insurance corporation or the board of governors of the federal reserve system, as applicable.

(5) Notwithstanding any provision of this section to the contrary, in the event that a bank's capital declines sufficiently to seriously impair the bank's ability to effectively operate in its marketplace or serve the needs of its customers or the community in which it is located, the director may, upon written application and in the exercise of the director's discretion, grant the bank temporary permission to fund loans and extensions of credit in excess of the bank's limit on loans and extensions of credit under this section. In the exercise of discretion, the director may further specify conditions for granting such emergency exception and may limit emergency lending authority under this section to particular types or classes of loans and extensions of credit.

(6) Notwithstanding any provision of this section to the contrary, the director, in the exercise of discretion, may grant an exception to the limit on loans and extensions of credit otherwise required by this section, based on extenuating facts and circumstances. In deciding whether to grant an exception under this subsection, the director shall consider:

(a) The proposed transaction for which the exception is sought;

(b) How the requested exception would affect the capital adequacy and safety and soundness of the requesting bank if the exception is not granted or, if the exception is granted, if the proposed borrower should ultimately default;

(c) How the requested exception would affect the loan portfolio diversification of the requesting bank;

(d) The competency of management to handle the proposed transaction and any resulting safety and soundness issues;

(e) The marketability and value of the proposed collateral; and

(f) The extenuating facts and circumstances that warrant an exception in light of the purpose of limit on loans and extensions of credit set forth in this section.

Sec. 4. RCW 30.04.215 and 2010 c 88 s 12 are each amended to read as follows:

(1) Notwithstanding any other provisions of law, in addition to all powers enumerated by this title, and those necessarily implied therefrom, a bank or trust company may engage in other business activities that have been determined by the board of governors of the federal reserve system or by the United States Congress to be closely related to the business of banking, as of ~~((July 27, 2003))~~ the effective date of this section.

(2) A bank or trust company that desires to perform an activity that is not expressly authorized by subsection (1) of this section shall first apply to the director for authorization to conduct such activity. Within thirty days of the receipt of this application, the director shall determine whether the activity is closely related to the business of banking, whether the public convenience and advantage will be promoted, whether the activity is apt to create an unsafe and unsound practice by the bank or trust company and whether the applicant is capable of performing such an activity. If the director finds the activity to be closely related to the business of banking and the bank or trust company is otherwise qualified, he or she shall immediately inform the applicant that the activity is authorized. If the director determines that such activity is not closely related to the business of banking or that the bank or trust company is not otherwise qualified, he or she shall promptly inform the applicant in writing. The applicant shall have the right to appeal from an unfavorable determination in accordance with the procedures of the Administrative Procedure Act, chapter 34.05 RCW. In determining whether a particular activity is closely related to the business of banking, the director shall be guided by the rulings of the board of governors of the federal reserve system and the comptroller of the currency in making determinations in connection with the powers exercisable by bank holding companies, and the activities performed by other commercial banks or their holding companies.

(3) Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a bank ~~((or trust company))~~ has under the laws of this state, a bank ~~((or trust company))~~ shall have ~~((each and every power and authority))~~ the powers and authorities conferred as of July 28, 1985, or as of any subsequent date not later than ~~((July 27, 2003))~~ the effective date of this section, upon any federally chartered bank doing business in this state. A bank ~~((or trust company))~~ may exercise the powers and authorities conferred on a federally chartered bank after ~~((July 27, 2003))~~ the effective date

of this section, only if the director finds that the exercise of such powers and authorities:

(a) Serves the convenience and advantage of depositors, borrowers, or the general public; and

(b) Maintains the fairness of competition and parity between state-chartered banks ~~((or trust companies))~~ and federally chartered banks.

(4) Notwithstanding any other provisions of law, a bank has the powers and authorities that an out-of-state state bank operating a branch in Washington has if the director finds that the exercise of such powers and authorities serves the convenience and advantage of depositors and borrowers, or the general public, and maintains the fairness of competition and parity between state-chartered banks and out-of-state state banks.

~~(5)~~ As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

~~((5))~~ (6) The restrictions, limitations, and requirements applicable to specific powers ~~((or))~~ and authorities of federally chartered banks and out-of-state state banks, as applicable, shall apply to banks ~~((or trust companies))~~ exercising those powers ~~((or))~~ and authorities permitted under this ~~((subsection))~~ section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers ~~((or))~~ and authorities granted banks ~~((or trust companies))~~ solely under this ~~((subsection))~~ section.

~~((6))~~ (7) The director may require a bank ~~((or trust company))~~ to provide notice to the director prior to implementation of a plan to develop, improve, or continue holding real estate, including capitalized and operating leases, acquired through any means in full or partial satisfaction of a debt previously contracted, under circumstances which a national bank would be required to provide notice to the comptroller of the currency prior to implementation of such a plan. The director may adopt rules or issue orders, directives, standards, policies, memoranda, or other official communications to specify guidance with regard to the exercise of the powers and authorities to expend such funds as are needed to enable a bank or trust company to recover its total investment to the fullest extent authorized for a national bank under the national bank act, 12 U.S.C. Sec. 29.

~~((7))~~ (8) Any activity which may be performed by a bank or trust company, except the taking of deposits, may be performed by (a) a corporation or (b) another entity approved by the director, which in either case is owned in whole or in part by the bank or trust company.

Sec. 5. RCW 30.04.217 and 2010 c 88 s 13 are each amended to read as follows:

(1) Notwithstanding any other provisions of law, in addition to all powers, express or implied, that a bank ~~((or trust company))~~ has under the laws of this state, a bank ~~((or trust company))~~ shall have the powers and authorities conferred upon a savings bank under Title 32 RCW ~~((, only if:~~

~~(a) The bank or trust company notifies the director at least thirty days prior to the exercise of such power or authority by the bank or trust company, unless the director waives or modifies this requirement for notice as to the exercise of a power, authority, or category of powers or authorities by the bank or trust company;~~

~~(b) The director finds that the exercise of such powers and authorities by the bank or by the trust company serves the convenience and advantage of depositors, borrowers, or the general public; and~~

~~(c) The director finds that the exercise of such powers and authorities by the bank or by the trust company maintains the fairness of competition and parity between banks or trust companies and mutual savings banks)).~~

(2) As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

(3) The restrictions, limitations, and requirements applicable to specific powers ~~((or))~~ and authorities of ~~((mutual))~~ savings banks shall apply to banks ~~((or trust companies))~~ exercising those powers ~~((or))~~ and authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers ~~((or))~~ and authorities granted banks ~~((or trust companies))~~ solely under this section.

Sec. 6. RCW 30.04.240 and 2003 c 53 s 184 are each amended to read as follows:

(1) ~~((Every corporation doing))~~ A person authorized under this title to engage in a trust business shall maintain in its office a trust department in which it shall keep books and accounts of its trust business, separate and apart from its other business. Such books and accounts shall specify the cash, securities and other properties, real and personal, held in each trust, and such securities and properties shall be at all times segregated from all other securities and properties except as otherwise provided in this section.

(2) Any person connected with a bank or trust company who shall, contrary to this section or any other provision of law, commingle any funds or securities of any kind held by such corporation in trust, for safekeeping or as agent for another, with the funds or assets of the corporation is guilty of a class B felony punishable according to chapter 9A.20 RCW.

(3) Notwithstanding any other provisions of law, any fiduciary holding securities in its fiduciary capacity or any state bank, national bank, or trust company holding securities as fiduciary or as custodian for a fiduciary is authorized to deposit or arrange for the deposit of such securities: (a) In a clearing corporation (as defined in Article 8 of the Uniform Commercial Code, chapter 62A.8 RCW); (b) within another state bank, national bank, or trust company having trust power whether located inside or outside of this state; or (c) within itself. When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation or state bank, national bank, or trust company holding the securities as the depository, with any other such securities deposited in such clearing corporation or depository by any person, regardless of the ownership of such securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such state bank, national bank, or trust company as a fiduciary or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are so deposited. Ownership of, and other interests in, such securities may be transferred by bookkeeping entries on the books of such clearing corporation, state bank, national bank, or trust company without physical delivery or

alteration of certificates representing such securities. A state bank, national bank, or trust company so depositing securities pursuant to this section shall be subject to such rules and regulations as, in the case of state chartered banks and trust companies, the director and, in the case of national banking associations, the comptroller of the currency may from time to time issue. A state bank, national bank, or trust company acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such state bank, national bank, or trust company in such clearing corporation or state bank, national bank, or trust company acting as such depository for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation or state bank, national bank, or trust company acting as such depository for its account as such fiduciary.

This subsection shall apply to any fiduciary holding securities in its fiduciary capacity, and to any state bank, national bank, or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary, acting on March 14, 1973 or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation.

Sec. 7. RCW 30.04.260 and 2003 c 53 s 185 are each amended to read as follows:

(1) No ~~((trust company or other corporation))~~ person, other than an attorney-at-law or law firm as permitted by other law, which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, shall be permitted to act as executor, administrator, or guardian; and ~~((any trust company or other corporation))~~ such person whose officers or agents shall solicit legal business shall be ineligible for a period of one year thereafter to be appointed executor, administrator, or guardian in any of the courts of this state.

(2) Any person authorized under this title to engage in a trust ~~((company or other corporation))~~ business, which advertises that it will furnish legal advice, construct or prepare wills, or do other legal work for its customers, and any officer, agent, or employee of ~~((any trust company or corporation))~~ such person who shall solicit legal business is guilty of a gross misdemeanor.

Sec. 8. RCW 30.04.280 and 1998 c 45 s 1 are each amended to read as follows:

(1)(a) No person shall engage in banking except in compliance with and subject to the provisions of this title, unless it is a national bank or except insofar as it may be authorized so to do by the laws of this state relating to ~~((mutual))~~ savings banks or savings and loan associations.

(b) A ~~((corporation))~~ person shall not engage in a trust business except in compliance with and subject to the provisions of this title. This subsection (1)(b) does not apply to: (i) An individual, sole proprietor, general partnership, or joint venture composed of individuals; (ii) a person conducting business as an attorney-at-law or law firm; or (iii) a court-appointed guardian, conservator, trustee, or receiver.

(c) A bank shall not engage in a trust business except as authorized under this title.

(d) A bank or trust company shall not establish any branch except in accordance with the provisions of this title.

(e) Except as authorized by federal law or by another law of this state, a nondepository trust company incorporated under the laws of another state (~~—a national trust company or national bank the main office of which is located in such other state, or a federal savings bank the home office of which is located in such other state,~~) shall not be permitted to engage in a trust business in this state on more favorable terms and conditions than the terms and conditions on which trust companies incorporated under this chapter and (~~(mutual)~~) savings banks engaged in trust business under RCW 32.08.140, 32.08.142, 32.08.210, and 32.08.215 are permitted to engage in trust business in such other state.

(2) Notwithstanding any other provision of this section, the director may by rule or order prohibit any person from engaging in a trust business in this state contrary to the requirements of this title if the conduct of the trust business in this state by such person harms or is likely to harm the general public, or if it adversely affects the business of trust companies operating in this state. The director may issue a temporary cease and desist order against such person in the manner provided for in RCW 30.04.455 if the general public or trust companies are likely to be substantially injured by delay in issuing a cease and desist order. An order or rule made by the director pursuant to this subsection may require that any applicable person obtain a trust company charter under this title as a condition of continuing to engage in a trust business in this state, subject to meeting all qualifications for grant of a trust company charter under this title. This subsection does not apply to a person conducting business as an attorney-at-law or law firm or to a court-appointed guardian, conservator, trustee, or receiver.

Sec. 9. RCW 30.08.140 and 1996 c 2 s 5 are each amended to read as follows:

Upon the issuance of a certificate of authority to a bank, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

- (1) To adopt and use a corporate seal((-);
- (2) To have perpetual succession((-);
- (3) To make contracts((-);
- (4) To sue and be sued, the same as a natural person((-);
- (5) To elect directors who, subject to the provisions of the corporation's bylaws, shall have power to appoint such officers as may be necessary or convenient, to define their powers and duties and to dismiss them at pleasure, and who shall also have general supervision and control of the affairs of such corporation((-);
- (6) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of its affairs((-);
- (7) To invest and reinvest its funds in marketable obligations evidencing the indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, or debentures commonly known as investment securities except as may by regulation be limited by the director((-);

(8) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, to receive deposits of money and commercial paper, to lend money secured or unsecured, to issue all forms of letters of credit, to buy and sell bullion, coins and bills of exchange((-);

(9) To take and receive as bailee for hire upon terms and conditions to be prescribed by the corporation, for safekeeping and storage, jewelry, plate, money, specie, bullion, stocks, bonds, mortgages, securities and valuable paper of any kind and other valuable personal property, and to rent vaults, safes, boxes and other receptacles for safekeeping and storage of personal property((-);

(10) If the bank be located in a city of not more than five thousand inhabitants, to act as insurance agent. A bank exercising this power may continue to act as an insurance agent notwithstanding a change of the population of the city in which it is located((-);

(11) To accept drafts or bills of exchange drawn upon it having not more than six months sight to run, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods, providing shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title to readily marketable staples. No bank shall accept, either in a foreign or a domestic transaction, for any one person, company, firm or corporation, to an amount equal at any one time in the aggregate to more than ten percent of its paid up and unimpaired capital stock and surplus unless the bank is secured by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid up and unimpaired capital stock and surplus: PROVIDED, HOWEVER, That the director, under such general regulations applicable to all banks irrespective of the amount of capital or surplus, as the director may prescribe may authorize any bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred percent of its paid up and unimpaired capital stock and surplus: PROVIDED, FURTHER, That the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty percent of such capital stock and surplus((-);

(12) To accept drafts or bills of exchange drawn upon it, having not more than three months sight to run, drawn under regulations to be prescribed by the director by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies or insular possessions. Such drafts or bills may be acquired by banks in such amounts and subject to such regulations, restrictions and limitations as may be provided by the director: PROVIDED, HOWEVER, That no bank shall accept such drafts or bills of exchange referred to in this subdivision for any one bank to an amount exceeding in the aggregate ten percent of the paid up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security, and that no such drafts or bills of exchange shall be accepted by any bank in an amount exceeding at any time the aggregate of one-half of its paid up and unimpaired capital and surplus: PROVIDED FURTHER,

That compliance by any bank which is a member of the federal reserve system of the United States with the rules, regulations and limitations adopted by the federal reserve board thereof with respect to the acceptance of drafts or bills of exchange by members of such federal reserve system shall be a sufficient compliance with the requirements of this subdivision or paragraph relating to rules, regulations and limitations prescribed by the director((-));

(13) To have and exercise all powers necessary or convenient to effect its purposes((-));

(14) To serve as custodian of an individual retirement account and pension and profit sharing plans qualified under internal revenue code section 401(a), the assets of which are invested in deposits of the bank or trust company or are invested, pursuant to directions from the customer owning the account, in securities traded on a national securities market: PROVIDED, That the bank or trust company shall accept no investment responsibilities over the account unless it is granted trust powers by the director((-));

(15) To be a limited partner in a limited partnership that engages in only such activities as are authorized for the bank.

~~((16) To exercise any other power or authority permissible under applicable state or federal law conducted by out of state state banks with branches in Washington to the same extent if, in the opinion of the director, those powers and authorities affect the operations of banking in Washington or affect the delivery of financial services in Washington.))~~

Sec. 10. RCW 30.08.140 and 2011 c 303 s 7 are each amended to read as follows:

Upon the issuance of a certificate of authority to a bank, the persons named in the articles of incorporation and their successors shall thereupon become a corporation and shall have power:

(1) To adopt and use a corporate seal((-));

(2) To have perpetual succession((-));

(3) To make contracts((-));

(4) To sue and be sued, the same as a natural person((-));

(5) To elect directors who, subject to the provisions of the corporation's bylaws, shall have power to appoint such officers as may be necessary or convenient, to define their powers and duties and to dismiss them at pleasure, and who shall also have general supervision and control of the affairs of such corporation((-);

(6) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of its affairs((-);

(7) To invest and reinvest its funds in marketable obligations evidencing the indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, or debentures commonly known as investment securities except as may by regulation be limited by the director((-);

(8) To discount and negotiate promissory notes, drafts, bills of exchange and other evidences of debt, to receive deposits of money and commercial paper, to lend money secured or unsecured, to issue all forms of letters of credit, to buy and sell bullion, coins and bills of exchange((-);

(9) To take and receive as bailee for hire upon terms and conditions to be prescribed by the corporation, for safekeeping and storage, jewelry, plate,

money, specie, bullion, stocks, bonds, mortgages, securities and valuable paper of any kind and other valuable personal property, and to rent vaults, safes, boxes and other receptacles for safekeeping and storage of personal property((-));

(10) If the bank be located in a city of not more than five thousand inhabitants, to act as insurance agent. A bank exercising this power may continue to act as an insurance agent notwithstanding a change of the population of the city in which it is located((-));

(11) To accept drafts or bills of exchange drawn upon it having not more than six months sight to run, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods, providing shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title to readily marketable staples. No bank shall accept, either in a foreign or a domestic transaction, for any one person, company, firm or corporation, to an amount equal at any one time in the aggregate to more than ten percent of its paid up and unimpaired capital stock and surplus unless the bank is secured by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid up and unimpaired capital stock and surplus: PROVIDED, HOWEVER, That the director, under such general regulations applicable to all banks irrespective of the amount of capital or surplus, as the director may prescribe may authorize any bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred percent of its paid up and unimpaired capital stock and surplus: PROVIDED, FURTHER, That the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty percent of such capital stock and surplus((-));

(12) To accept drafts or bills of exchange drawn upon it, having not more than three months sight to run, drawn under regulations to be prescribed by the director by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies or insular possessions. Such drafts or bills may be acquired by banks in such amounts and subject to such regulations, restrictions and limitations as may be provided by the director: PROVIDED, HOWEVER, That no bank shall accept such drafts or bills of exchange referred to in this subdivision for any one bank to an amount exceeding in the aggregate ten percent of the paid up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security, and that no such drafts or bills of exchange shall be accepted by any bank in an amount exceeding at any time the aggregate of one-half of its paid up and unimpaired capital and surplus: PROVIDED FURTHER, That compliance by any bank which is a member of the federal reserve system of the United States with the rules, regulations and limitations adopted by the federal reserve board thereof with respect to the acceptance of drafts or bills of exchange by members of such federal reserve system shall be a sufficient compliance with the requirements of this subdivision or paragraph relating to rules, regulations and limitations prescribed by the director((-));

(13) To have and exercise all powers necessary or convenient to effect its purposes((-);

(14) To serve as custodian of an individual retirement account and pension and profit sharing plans qualified under internal revenue code section 401(a), the assets of which are invested in deposits of the bank or trust company or are invested, pursuant to directions from the customer owning the account, in securities traded on a national securities market: PROVIDED, That the bank or trust company shall accept no investment responsibilities over the account unless it is granted trust powers by the director((-);

(15) To be a limited partner in a limited partnership that engages in only such activities as are authorized for the bank((-);

~~(16) ((To exercise any other power or authority permissible under applicable state or federal law conducted by out of state state banks with branches in Washington to the same extent if, in the opinion of the director, those powers and authorities affect the operations of banking in Washington or affect the delivery of financial services in Washington.~~

~~(17))~~ To conduct a promotional contest of chance as authorized in RCW 9.46.0356(l)(b), as long as the conditions of RCW 9.46.0356(5) and 30.22.260 are complied with to the satisfaction of the director.

Sec. 11. RCW 30.08.155 and 1998 c 45 s 2 are each amended to read as follows:

(1) Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a trust company has under the laws of this state, a trust company shall have the powers and authorities conferred as of June 11, 1998, upon a federally chartered trust company doing business in this state. A trust company may exercise the powers and authorities conferred on a federally chartered trust company after this date only if the director finds that the exercise of such powers and authorities:

((+)) (a) Serves the convenience and advantage of trustors and beneficiaries, or the general public; and

((2)) (b) Maintains the fairness of competition and parity between state-chartered trust companies and federally chartered trust companies.

(2) Notwithstanding any other provisions of law, a trust company has the powers and authorities that an out-of-state state trust company conducting trust business in Washington has if the director finds that the exercise of such powers and authorities serves the convenience and advantage of trustors and beneficiaries, or the general public, and maintains the fairness of competition and parity between state-chartered trust companies and out-of-state state trust companies.

(3) As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

(4) The restrictions, limitations, and requirements applicable to specific powers ~~((+))~~ and authorities of federally chartered trust companies and out-of-state state trust companies, as applicable, shall apply to trust companies exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted trust companies solely under this section.

Sec. 12. RCW 30.38.010 and 2005 c 348 s 2 are each amended to read as follows:

(1) An out-of-state bank may engage in banking in this state without violating RCW 30.04.280 only if the conditions and filing requirements of this chapter are met and the bank was lawfully engaged in banking in this state on ~~((June 6, 1996))~~ July 22, 2010, or the bank's in-state banking activities:

(a) Resulted from an interstate combination pursuant to RCW 30.49.125 or 32.32.500;

(b) Resulted from a relocation of a head office of a state bank pursuant to 12 U.S.C. Sec. 30 and RCW 30.04.215(3);

(c) Resulted from a relocation of a main office of a national bank pursuant to 12 U.S.C. Sec. 30;

(d) Resulted from the establishment of a branch of a savings bank in compliance with RCW 32.04.030~~((=))~~ (6); or

(e) Resulted from interstate branching under RCW 30.38.015.

Nothing in this section affects the authorities of alien banks as defined by RCW 30.42.020 to engage in banking within this state.

(2) The director, consistent with 12 U.S.C. Sec. 1831u(b)(2)(D), may approve an interstate combination if the standard on which the approval is based does not discriminate against out-of-state banks, out-of-state bank holding companies, or subsidiaries of those banks or holding companies.

Sec. 13. RCW 30.38.015 and 2005 c 348 s 3 are each amended to read as follows:

(1) An out-of-state bank that does not have a branch in Washington may, under this chapter, establish and maintain:

(a) A de novo branch in this state; or

(b) A branch in this state through the acquisition of a branch.

(2) An out-of-state bank desiring to establish and maintain a de novo branch or to acquire a branch in this state shall provide written application of the proposed transaction to the director, accompanied by the fee prescribed by the director, not later than three days after the date of filing with the responsible federal bank supervisory agency for approval to establish or acquire the branch.

(3) Subject to the conditions of this chapter, the director ~~((may not))~~ shall approve an application under subsection (2) of this section ~~((unless it is found that:~~

~~(a) In the case of a de novo branch, the laws of the home state of the out-of-state bank permit Washington banks to establish and maintain de novo branches in that state under substantially the same, or at least as favorable, terms and conditions as set forth in this chapter; or~~

~~(b) In the case of a branch established through the acquisition of a branch, the laws of the home state of the out-of-state bank permit Washington banks to establish and maintain branches in that state through the acquisition of branches under terms and conditions that are substantially the same, or at least as favorable, as set forth in this chapter)) if the out-of-state bank would be permitted to establish or acquire a branch in Washington state if it were a bank chartered in Washington state.~~

Sec. 14. RCW 30.46.020 and 1994 c 92 s 134 are each amended to read as follows:

(1) If upon examination or at any other time it appears to the director that any bank or trust company is in an unsafe condition and its condition is such as to render the continuance of its business hazardous to the public or to its depositors and creditors, or if such bank or trust company appears to have exceeded its powers or has failed to comply with the law, or if such bank or trust company gives its consent, then the director shall upon his or her determination ~~((+))~~ (a) notify the bank or trust company of his or her determination, and ~~((2))~~ (b) furnish to the bank or trust company a written list of the director requirements to abate his or her determination, and ~~((3))~~ (c) if the director makes further determination to directly supervise, ~~((he or she shall))~~ notify the bank or trust company that it is under the supervisory direction of the director and that the director is invoking the provisions of this chapter. If placed under supervisory direction the bank or trust company shall comply with the lawful requirements of the director within such time as provided in the notice of the director, subject however, to the provisions of this chapter. If the bank or trust company fails to comply within such time the director may appoint a conservator as hereafter provided.

(2) A person appointed as conservator by the director pursuant to this chapter is immune from criminal, civil, and administrative liability for any act done in good faith in the performance of the duties of conservator.

Sec. 15. RCW 30.46.030 and 1994 c 92 s 135 are each amended to read as follows:

During the period of supervisory direction the director may appoint a representative to supervise such bank or trust company and may provide that the bank or trust company may not do any of the following during the period of supervisory direction, without the prior approval of the director or the appointed representative~~((:))~~:

- (1) Dispose of, convey, or encumber any of the assets, excluding trust assets under management;
- (2) Withdraw any of its bank accounts;
- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property; or
- (6) Incur any debt, obligation, or liability.

Sec. 16. RCW 30.46.040 and 1994 c 92 s 136 are each amended to read as follows:

After the period of supervisory direction specified by the director for compliance, if he or she determines that such bank or trust company has failed to comply with the lawful requirements imposed, upon due notice and hearing or by consent of the bank, the director may appoint a conservator, who shall immediately take charge of such bank or trust company and all of its property, books, records, and effects. The conservator shall conduct the business of the bank or trust company and take such steps toward the removal of the causes and conditions which have necessitated such order, as the director may direct. During the pendency of the conservatorship the conservator shall make such reports to the director from time to time as may be required by the director, and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such bank or trust company, including claims

or causes of actions belonging to or which may be asserted by such bank, and to deal with the same in his or her own name as conservator, and shall be empowered to file, prosecute, and defend any suit and suits which have been filed or which may thereafter be filed by or against such bank or trust company which are deemed by the conservator to be necessary to protect all of the interested parties for a property affected thereby. The director, or any newly appointed assistant, may be appointed to serve as conservator. If the director, however, is satisfied that such bank or trust company is not in condition to continue business in the interest of its (~~depositors or creditors~~) customers under the conservator as above provided, the director may proceed with appropriate remedies provided by other provisions of this title.

Sec. 17. RCW 30.46.050 and 1994 c 92 s 137 are each amended to read as follows:

All costs incident to supervisory direction and the conservatorship shall be fixed and determined by the director and shall be a charge against the assets of the bank or trust company, excluding trust assets under management, to be allowed and paid as the director may determine.

Sec. 18. RCW 30.46.060 and 1994 c 92 s 138 are each amended to read as follows:

During the period of the supervisory direction and during the period of conservatorship, the bank or trust company may request the director to review an action taken or proposed to be taken by the representative or conservator; specifying wherein the action complained of is believed not to be in the best interest of the bank or trust company, and such request shall stay the action specified pending review of such action by the director. Any order entered by the director appointing a representative and providing that the bank or trust company shall not do certain acts as provided in RCW 30.46.030 and 30.46.040, any order entered by the director appointing a conservator, and any order by the director following the review of an action of the representative or conservator as herein above provided shall be subject to review in accordance with the administrative procedure act of the state of Washington.

Sec. 19. RCW 30.46.070 and 1994 c 92 s 139 are each amended to read as follows:

Any suit filed against a bank or its conservator or a trust company or its conservator, after the entrance of an order by the director placing such bank or trust company in conservatorship and while such order is in effect, shall be brought in the superior court of Thurston county and not elsewhere. The conservator appointed hereunder for such bank or trust company may file suit in any superior court or other court of competent jurisdiction against any person for the purpose of preserving, protecting, or recovering any asset or property of such bank or trust company including claims or causes of action belonging to or which may be asserted by such bank.

Sec. 20. RCW 30.46.080 and 1975 1st ex.s. c 87 s 8 are each amended to read as follows:

The conservator shall serve for such time as is necessary to accomplish the purposes of the conservatorship as intended by this chapter. If rehabilitated, the rehabilitated bank or trust company shall be returned to management or new

managements under such conditions as are reasonable and necessary to prevent recurrence of the condition which occasioned the conservatorship.

Sec. 21. RCW 30.46.090 and 1994 c 92 s 140 are each amended to read as follows:

If the director determines to act under authority of this chapter, the sequence of his or her acts and proceedings shall be as set forth in this chapter. However, it is the purpose and substance of this chapter to authorize administrative discretion—to allow the director administrative discretion in the event of unsound banking or trust company operations—and in furtherance of that purpose the director is hereby authorized to proceed with regulation either under this chapter or under any other applicable provisions of law or under this chapter in connection with other law, either as such law is now existing or is hereinafter enacted, and it is so provided.

Sec. 22. RCW 32.04.030 and 2005 c 348 s 4 are each amended to read as follows:

(1) A savings bank may not, without the written approval of the director, establish and operate branches in any place.

(2) A savings bank headquartered in this state desiring to establish a branch shall file a written application with the director, who shall approve or disapprove the application.

(3) The director's approval shall be conditioned on a finding that the savings bank has a satisfactory record of compliance with applicable laws and has a satisfactory financial condition. In making such findings, the director may rely on an application in the form filed with the federal deposit insurance corporation pursuant to 12 U.S.C. Sec. 1828(d). If the application for a branch is not approved, the savings bank shall have the right to appeal in the same manner and within the same time as provided by RCW 32.08.050 and 32.08.060. The savings bank when delivering the application to the director shall transmit to the director a check in an amount established by rule to cover the expense of the investigation. A savings bank headquartered in this state shall not move its headquarters or any branch more than two miles from its existing location without prior approval of the director. On or before the date on which it opens any office at which it will transact business in any state, territory, province, or other jurisdiction, a savings bank shall give written notice to the director of the location of this office. No such notice shall become effective until it has been delivered to the director.

(4) The board of trustees of a savings bank, after notice to the director, may discontinue the operation of a branch. The savings bank shall keep the director informed in the matter and shall notify the director of the date operation of the branch is discontinued.

(5) A savings bank that is headquartered in this state and is operating branches in another state, territory, province, or other jurisdiction may provide copies of state examination reports and reports of condition of the savings bank to the regulator having oversight responsibility with regard to its operations in that other jurisdiction, including the regulator of savings associations in the event such a savings bank is transacting savings and loan business pursuant to RCW 32.08.142 in that other jurisdiction.

(6) No savings bank headquartered in another state may establish, or acquire pursuant to RCW 32.32.500, and operate branches as a savings bank or foreign savings association in any place within ~~((the))~~ this state unless:

(a) The savings bank has filed with the director an agreement to comply with the requirements of RCW 30.38.040 for periodic reports by the savings bank or by the appropriate state superintendent or equivalent regulator of the savings bank under the laws of the state in which the savings bank is incorporated, unless the laws expressly require the provision of all the reports to the director;

(b) The savings bank has filed with the director (i) a duly executed instrument in writing, by its terms of indefinite duration and irrevocable, appointing the director and his or her successors its true and lawful attorney, upon whom all process in any action or proceeding against it in a cause of action arising out of business transacted by such savings bank in this state, may be served with the same force and effect as if it were a domestic corporation and had been lawfully served with process within the state, and (ii) a written certificate of designation, which may be changed from time to time by the filing of a new certificate of designation, specifying the name and address of the officer, agent, or other person to whom such process shall be forwarded by the director;

(c) The savings bank has supplied the director with such information as he or she shall require by rule, not to exceed the information on which the director may rely in approving a branch application pursuant to this section by a savings bank headquartered in this state; and

~~((The ((laws of the state in which the)) out-of-state savings bank ((is chartered permit savings banks chartered under this title)) would be permitted to establish or acquire(;) and maintain branches in ((that) Washington state(;; under terms and conditions that are substantially the same as, or at least as favorable to, the terms and conditions for the chartering of)) if it were chartered as a savings bank((s)) under this title.~~

~~((7) A savings bank headquartered in another state may not establish and operate branches as a foreign savings association in any place within the state except upon compliance with chapter 33.32 RCW.~~

~~(8) Notwithstanding any provision of this title to the contrary, an out-of-state depository institution may not branch in the state of Washington, unless a Washington state bank, bank holding company, savings bank, savings bank holding company, savings and loan association, or savings and loan holding company is permitted to branch in the state in which that out-of-state depository institution is chartered or in which its principal office is located, under terms and conditions that are substantially the same as, or at least as favorable to entry as, the terms and conditions for branching of savings banks under this title. As used in this subsection, "out of state depository institution" means a bank or bank holding company, or a converted mutual savings bank or the holding company of a mutual savings bank, which is chartered in or whose principal office is located in another state, or a savings and loan association or the holding company of a savings and loan association, which is chartered in another state.)~~

NEW SECTION, Sec. 23. A new section is added to chapter 32.04 RCW to read as follows:

Notwithstanding any other provisions of this title, a savings bank is subject to the same limits on loans and extensions of credit, and exceptions thereto, as set forth in RCW 30.04.111.

Sec. 24. RCW 32.08.140 and 1999 c 14 s 17 are each amended to read as follows:

Every (~~mutual~~) savings bank incorporated under this title shall have, subject to the restrictions and limitations contained in this title, the following powers:

(1) To receive deposits of money, to invest the same in the property and securities prescribed in this title, to declare dividends in the manner prescribed in this title, and to exercise by its board of trustees or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of a savings bank((-);

(2) To issue transferable certificates showing the amounts contributed by any incorporator or trustee to the guaranty fund of such bank, or for the purpose of paying its expenses. Every such certificate shall show that it does not constitute a liability of the savings bank, except as otherwise provided in this title((-);

(3) To purchase, hold and convey real property as prescribed in RCW 32.20.280((-);

(4) To pay depositors as hereinafter provided, and when requested, pay them by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge current rates of exchange for such drafts((-);

(5) To borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for the purpose of repaying depositors, and to pledge or hypothecate securities as collateral for loans so obtained. Immediate written notice shall be given to the director of all amounts so borrowed, and of all assets so pledged or hypothecated((-);

(6) Subject to such regulations and restrictions as the director finds to be necessary and proper, to borrow money in pursuance of a resolution, policy, or other governing document adopted by its board of trustees, for purposes other than that of repaying depositors and to pledge or hypothecate its assets as collateral for any such loans, provided that no amount shall at any time be borrowed by a savings bank pursuant to this subsection (6), if such amount, together with the amount then remaining unpaid upon prior borrowings by such savings bank pursuant to this subsection (6), exceeds thirty percent of the assets of the savings bank.

The sale of securities or loans by a bank subject to an agreement to repurchase the securities or loans shall not be considered a borrowing. Borrowings from federal, state, or municipal governments or agencies or instrumentalities thereof shall not be subject to the limits of this subsection((-);

(7) To collect or protest promissory notes or bills of exchange owned by such bank or held by it as collateral, and remit the proceeds of the collections by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge the usual rates or fees for such collection and remittance for such protest((-);

(8) To sell gold or silver received in payment of interest or principal of obligations owned by the savings bank or from depositors in the ordinary course of business((-));

(9) To act as insurance agent for the purpose of writing fire insurance on property in which the bank has an insurable interest, the property to be located in the city in which the bank is situated and in the immediate contiguous suburbs, notwithstanding anything in any other statute to the contrary((-));

(10) To let vaults, safes, boxes or other receptacles for the safekeeping or storage of personal property, subject to laws and regulations applicable to, and with the powers possessed by, safe deposit companies((-));

(11) To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, to fix their compensation, subject to the provisions of this title, and to define their powers and duties, and to remove them at will((-));

(12) To make and amend bylaws consistent with law for the management of its property and the conduct of its business((-);

(13) To wind up and liquidate its business in accordance with this title((-);

(14) To adopt and use a common seal and to alter the same at pleasure((-);

(15) ~~(To exercise any other power or authority permissible under applicable state or federal law exercised by other savings banks or by savings and loan associations with branches in Washington to the same extent as those savings institutions if, in the opinion of the director, the exercise of these powers and authorities by the other savings institutions affects the operations of savings banks in Washington or affects the delivery of financial services in Washington.~~

~~(16))~~ To exercise the powers and authorities conferred by RCW 30.04.215((-);

~~((17))~~ (16) To exercise the powers and authorities that may be carried on by a subsidiary of the ~~((mutual))~~ savings bank that has been determined to be a prudent investment pursuant to RCW 32.20.380((-);

~~((18))~~ (17) To do all other acts authorized by this title((-);

~~((19))~~ (18) To exercise the powers and authorities that may be exercised by an insured state bank in compliance with 12 U.S.C. Sec. 1831a.

Sec. 25. RCW 32.08.140 and 2011 c 303 s 8 are each amended to read as follows:

Every ~~((mutual))~~ savings bank incorporated under this title shall have, subject to the restrictions and limitations contained in this title, the following powers:

(1) To receive deposits of money, to invest the same in the property and securities prescribed in this title, to declare dividends in the manner prescribed in this title, and to exercise by its board of trustees or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of a savings bank((-);

(2) To issue transferable certificates showing the amounts contributed by any incorporator or trustee to the guaranty fund of such bank, or for the purpose of paying its expenses. Every such certificate shall show that it does not constitute a liability of the savings bank, except as otherwise provided in this title((-);

(3) To purchase, hold and convey real property as prescribed in RCW 32.20.280((-);

(4) To pay depositors as hereinafter provided, and when requested, pay them by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge current rates of exchange for such drafts((-);

(5) To borrow money in pursuance of a resolution adopted by a vote of a majority of its board of trustees duly entered upon its minutes whereon shall be recorded by ayes and noes the vote of each trustee, for the purpose of repaying depositors, and to pledge or hypothecate securities as collateral for loans so obtained. Immediate written notice shall be given to the director of all amounts so borrowed, and of all assets so pledged or hypothecated((-);

(6) Subject to such regulations and restrictions as the director finds to be necessary and proper, to borrow money in pursuance of a resolution, policy, or other governing document adopted by its board of trustees, for purposes other than that of repaying depositors and to pledge or hypothecate its assets as collateral for any such loans, provided that no amount shall at any time be borrowed by a savings bank pursuant to this subsection (6), if such amount, together with the amount then remaining unpaid upon prior borrowings by such savings bank pursuant to this subsection (6), exceeds thirty percent of the assets of the savings bank.

The sale of securities or loans by a bank subject to an agreement to repurchase the securities or loans shall not be considered a borrowing. Borrowings from federal, state, or municipal governments or agencies or instrumentalities thereof shall not be subject to the limits of this subsection((-);

(7) To collect or protest promissory notes or bills of exchange owned by such bank or held by it as collateral, and remit the proceeds of the collections by drafts upon deposits to the credit of the savings bank in any city in the United States, and to charge the usual rates or fees for such collection and remittance for such protest((-);

(8) To sell gold or silver received in payment of interest or principal of obligations owned by the savings bank or from depositors in the ordinary course of business((-);

(9) To act as insurance agent for the purpose of writing fire insurance on property in which the bank has an insurable interest, the property to be located in the city in which the bank is situated and in the immediate contiguous suburbs, notwithstanding anything in any other statute to the contrary((-);

(10) To let vaults, safes, boxes or other receptacles for the safekeeping or storage of personal property, subject to laws and regulations applicable to, and with the powers possessed by, safe deposit companies((-);

(11) To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards, and committees, to fix their compensation, subject to the provisions of this title, and to define their powers and duties, and to remove them at will((-);

(12) To make and amend bylaws consistent with law for the management of its property and the conduct of its business((-);

(13) To wind up and liquidate its business in accordance with this title((-);

(14) To adopt and use a common seal and to alter the same at pleasure((-);

(15) ~~(To exercise any other power or authority permissible under applicable state or federal law exercised by other savings banks or by savings and loan associations with branches in Washington to the same extent as those savings institutions if, in the opinion of the director, the exercise of these powers~~

and authorities by the other savings institutions affects the operations of savings banks in Washington or affects the delivery of financial services in Washington.

~~((16))~~ To exercise the powers and authorities conferred by RCW 30.04.215~~((-))~~;

~~((17))~~ (16) To exercise the powers and authorities that may be carried on by a subsidiary of the ~~((mutual))~~ savings bank that has been determined to be a prudent investment pursuant to RCW 32.20.380~~((-))~~;

~~((18))~~ (17) To do all other acts authorized by this title~~((-))~~;

~~((19))~~ (18) To exercise the powers and authorities that may be exercised by an insured state bank in compliance with 12 U.S.C. Sec. 1831a~~((-))~~;

~~((20))~~ (19) To conduct a promotional contest of chance as authorized in RCW 9.46.0356(1)(b), as long as the conditions of RCW 9.46.0356(5) and 30.22.260 are complied with to the satisfaction of the director.

Sec. 26. RCW 32.08.142 and 2003 c 24 s 7 are each amended to read as follows:

(1) Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a ~~((mutual))~~ savings bank has under the laws of this state, a ~~((mutual))~~ savings bank shall have the powers and authorities that any federal mutual savings bank had on July 28, 1985, or as of a subsequent date not later than ~~((July 27, 2003))~~ the effective date of this section. As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

(2) A savings bank may exercise the powers and authorities granted, after the effective date of this section, to federal mutual savings banks or their successors under federal law only if the director finds that the exercise of such powers and authorities:

(a) Serves the convenience and advantage of depositors and borrowers, or the general public; and

(b) Maintains the fairness of competition and parity between state-chartered savings banks and federal savings banks or their successors under federal law.

(3) Notwithstanding any other provision of law, a savings bank has the powers and authorities that an out-of-state state savings bank or savings association operating a branch in Washington has if the director finds that the exercise of such powers and authorities serves the convenience and advantage of depositors and borrowers, or the general public, and maintains the fairness of competition and parity between savings banks and out-of-state state savings banks and savings associations.

(4) For the purposes of this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

(5) The restrictions, limitations, and requirements applicable to specific powers ~~((or))~~ and authorities of federal mutual savings banks or out-of-state state savings banks or savings associations, as applicable, shall apply to ~~((mutual))~~ savings banks exercising those powers ~~((or))~~ and authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers ~~((or))~~ and authorities granted ~~((mutual))~~ savings banks solely under this section.

Sec. 27. RCW 32.08.153 and 2010 c 88 s 49 are each amended to read as follows:

(1) Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a (~~(mutual)~~) savings bank has under the laws of this state, a (~~(mutual)~~) savings bank shall have (~~(each and every power and authority)~~) the powers and authorities that any national bank had on July 28, 1985, or (~~(on)~~) as of any subsequent date not later than (~~(July 27, 2003)~~) the effective date of this section.

(2) Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a savings bank has under the laws of this state, a savings bank has the powers and authorities conferred upon a national bank after the effective date of this section, only if the director finds that the exercise of such powers and authorities:

(a) Serves the convenience and advantage of depositors and borrowers, or the general public; and

(b) Maintains the fairness of competition and parity between savings banks and national banks.

(3) For the purposes of this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

(4) The restrictions, limitations, and requirements applicable to specific powers (~~(or)~~) and authorities of national banks apply to (~~(mutual)~~) savings banks exercising those powers (~~(or)~~) and authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted (~~(mutual)~~) savings banks solely under this section. The director may require such a savings bank to provide notice prior to implementation of a plan to develop, improve, or continue holding an individual parcel of real estate, including capitalized and operating leases, acquired through any means in full or partial satisfaction of a debt previously contracted, under circumstances in which a national bank would be required to provide notice to the comptroller of the currency prior to implementation of such a plan. The director may adopt rules, orders, directives, standards, policies, memoranda(~~(+)~~), or other communications to specify guidance with regard to the exercise of the powers and authorities to expend such funds as are needed to enable such a savings bank to recover its total investment, to the fullest extent authorized for a national bank under the national bank act, 12 U.S.C. Sec. 29.

Sec. 28. RCW 32.50.030 and 2010 c 88 s 68 are each amended to read as follows:

(1) After the period of supervisory direction specified by the director for compliance, if he or she determines that such savings bank has failed to comply with the lawful requirements imposed, upon due notice and hearing by the department or by consent of the savings bank, the director may appoint a conservator, who shall immediately take charge of such savings bank and all of its property, books, records, and effects. The conservator shall conduct the business of the savings bank and take such steps toward the removal of the causes and conditions which have necessitated such order, as the director may direct. During the pendency of the conservatorship the conservator shall make such reports to the director from time to time as may be required by the director, and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such savings bank, including claims or causes of actions belonging to or which may be asserted by such bank, and to deal with

the same in his or her own name as conservator, and shall be empowered to file, prosecute, and defend any suit and suits which have been filed or which may thereafter be filed by or against such savings bank which are deemed by the conservator to be necessary to protect all of the interested parties for a property affected thereby. The director, or any newly appointed assistant, may be appointed to serve as conservator. If the director, however, is satisfied that such savings bank is not in condition to continue business in the interest of its depositors or creditors under the conservator under this section, the director may proceed with appropriate remedies provided by other provisions of this title.

(2) A person appointed as conservator by the director pursuant to this chapter is immune from criminal, civil, and administrative liability for any act done in good faith in the performance of the duties of conservator.

Sec. 29. RCW 33.12.012 and 1994 c 256 s 119 are each amended to read as follows:

(1) Notwithstanding any other provision of law, in addition to all powers and authorities, express or implied, that an association has under this title, an association may exercise any of the powers ~~((or))~~ and authorities ~~((conferred as of December 31, 1993, upon))~~ that a federal savings and loan association ~~((doing business in this state))~~ had on December 31, 1993, or as of a subsequent date not later than the effective date of this section. As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance and operational matters.

(2) Notwithstanding any other provisions of law, a savings association has the powers and authorities that an out-of-state state savings association operating a branch in Washington has if the director finds that the exercise of such powers and authorities serves the convenience and advantage of depositors and borrowers, or the general public, and maintains the fairness of competition and parity between savings associations and out-of-state state savings associations.

(3) The restrictions, limitations and requirements applicable to specific powers ~~((or))~~ and authorities of federal savings and loan associations or out-of-state state savings associations, as applicable, shall apply to savings associations exercising those powers ((or)) and authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers ((or)) and authorities granted savings associations solely by this section.

Sec. 30. RCW 33.24.010 and 1994 c 92 s 445 are each amended to read as follows:

(1) An association may invest its funds only as provided in this chapter.

~~((It shall not invest more than two and a half percent of its assets in any loan or obligation to any one person, except with the written approval of the director.))~~

(2) An association is subject to the same limits on loans and extensions of credit, and exceptions thereto, as set forth in RCW 30.04.111.

Sec. 31. RCW 33.32.060 and 1945 c 235 s 85 are each amended to read as follows:

~~((No foreign))~~ Subject to other provisions of this chapter, an out-of-state savings and loan association shall be permitted to ~~((do business))~~ establish a branch or acquire branches in this state ~~((on more favorable terms and conditions~~

~~than the associations organized under the laws of this state are permitted to do business in the state in which such foreign association or corporation is organized)) if the out-of-state savings and loan association would be permitted to establish or acquire a branch in Washington state if it were a savings bank chartered under Title 32 RCW or a savings association chartered under this title.~~

NEW SECTION. Sec. 32. The following acts or parts of acts are each repealed:

- (1) RCW 30.08.095 (Schedule of fees to be established) and 1995 c 134 s 5;
- (2) RCW 32.08.146 (Additional powers—Powers and authorities granted to federal mutual savings banks after July 27, 2003—Restrictions) and 2003 c 24 s 8, 1999 c 14 s 19, 1996 c 2 s 25, & 1994 c 256 s 99;
- (3) RCW 32.08.155 (Additional powers—Powers and authorities conferred upon national banks after July 27, 2003—Restrictions) and 2003 c 24 s 5; and
- (4) RCW 32.08.1551 (Powers and authorities of national banks after July 27, 2003—Director's finding necessary) and 2010 c 88 s 50.

Sec. 33. 2011 c 303 s 9 (uncodified) is amended to read as follows:

Sections 7 and 8, chapter 303, Laws of 2011 and sections 10 and 25 of this act take effect when the director of the department of financial institutions finds that a federal regulatory agency has, through federal law, regulation, or official regulatory interpretation, interpreted federal law to permit banks operating under the authority of Title 30 or 32 RCW to conduct a promotional contest of chance as defined in RCW 30.22.040. If the contingency occurs, the director shall notify the chief clerk of the house of representatives, the secretary of the senate, and the office of the code reviser.

NEW SECTION. Sec. 34. Sections 9 and 24 of this act expire when the contingency under section 33 of this act has occurred.

NEW SECTION. Sec. 35. 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 March 7, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 77

[Substitute House Bill 1343]

NURSES—LICENSING SURCHARGE

AN ACT Relating to the additional surcharge imposed on registered nurses and licensed practical nurses; amending RCW 43.70.110 and 43.70.250; repealing RCW 18.79.2021; and declaring an emergency.

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

Sec. 1. RCW 43.70.110 and 2011 c 35 s 1 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such

fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202(~~, until June 30, 2013~~);

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, midwives licensed under chapter 18.50 RCW(~~(?)~~)₂, licensed marriage and family therapists under chapter 18.225 RCW(~~(?)~~)₂, and East Asian medicine practitioners licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

Sec. 2. RCW 43.70.250 and 2006 c 72 s 4 are each amended to read as follows:

It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program and the cost of regulating licensed volunteer medical workers in accordance with RCW 18.130.360, except as provided in RCW 18.79.202 (~~until June 30, 2013~~). All such fees shall be fixed by rule adopted by the secretary in

accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 3. RCW 18.79.2021 (Repealer) and 2005 c 268 s 5 are each repealed.

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 5, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 78

[Substitute House Bill 1376]

HEALTH PROFESSIONALS—SUICIDE ASSESSMENT TRAINING

AN ACT Relating to clarifying the requirement that certain health professionals complete training in suicide assessment, treatment, and management; and amending RCW 43.70.442.

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

Sec. 1. RCW 43.70.442 and 2012 c 181 s 2 are each amended to read as follows:

(1)(a) Beginning January 1, 2014, each of the following professionals certified or licensed under Title 18 RCW shall, at least once every six years, complete ((a)) training ((~~program~~)) in suicide assessment, treatment, and management that is approved, in rule, by the relevant disciplining authority:

- (i) An adviser or counselor certified under chapter 18.19 RCW;
- (ii) A chemical dependency professional licensed under chapter 18.205 RCW;
- (iii) A marriage and family therapist licensed under chapter 18.225 RCW;
- (iv) A mental health counselor licensed under chapter 18.225 RCW;
- (v) An occupational therapy practitioner licensed under chapter 18.59 RCW;
- (vi) A psychologist licensed under chapter 18.83 RCW; and
- (vii) An advanced social worker or independent clinical social worker 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 disciplinary authority has determined, under subsection (8)(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.

(2)(a)(i) Except as provided in (a)(ii) of this subsection, a professional listed in subsection (1)(a) of this section must complete the first training required by this section during the first full continuing education reporting period after ((June 7, 2012)) January 1, 2014, or the first full continuing education reporting period after initial licensure or certification, whichever occurs later.

(ii) A professional listed in subsection (1)(a) of this section applying for initial licensure on or after ~~((June 7, 2012))~~ January 1, 2014, 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 ~~((a six-hour))~~ the training ~~((program in suicide assessment, treatment, and management that:~~

~~(A) Was completed))~~ required in subsection (1) of this section no more than six years prior to the application for initial licensure~~((and~~

~~(B) Is listed on the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center)).~~

(3) The hours spent completing ~~((a))~~ training ~~((program))~~ in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education or continuing competency requirements for each profession.

(4)(a) A disciplining authority may, by rule, specify minimum training and experience that is sufficient to exempt a professional from the training requirements in subsection (1) of this section.

(b) The board of occupational therapy practice may exempt an occupational ~~((therapists))~~ therapy practitioner from the training requirements of subsection (1) of this section ~~((by specialty-))~~ if the ~~((specialty in question))~~ occupational therapy practitioner has only brief or limited patient contact.

(5)(a) The secretary and the disciplining authorities shall work collaboratively to develop a model list of training programs in suicide assessment, treatment, and management.

(b) When developing the model list, the secretary and the disciplining authorities shall:

(i) Consider suicide assessment, treatment, and management training programs of at least six hours in length listed on the best practices registry of the American foundation for suicide prevention and the suicide prevention resource center; and

(ii) Consult with public and private institutions of higher education, experts in suicide assessment, treatment, and management, and affected professional associations.

(c) The secretary and the disciplining authorities shall report the model list of training programs to the appropriate committees of the legislature no later than December 15, 2013.

(6) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under chapter 18.130 RCW.

(7) The secretary and the disciplining authorities affected by this section shall adopt any rules necessary to implement this section.

(8) For purposes of this section:

(a) "Disciplining authority" has the same meaning as in RCW 18.130.020.

(b) "Training ~~((program))~~ in suicide assessment, treatment, and management" means ~~((an))~~ empirically supported training ~~((program))~~ 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 ((a)) training ((program)) that ((excludes one of the elements if the element is inappropriate)) includes only screening and referral elements if appropriate for the profession in question based on the profession's scope of practice. ~~((A~~

~~training program that includes only screening and referral elements shall be at least three hours in length. All other training programs approved under this section shall be at least six hours in length.)~~ 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.

(9) 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.

(10) An employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

Passed by the House February 25, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 79

[Engrossed House Bill 1396]

UNEMPLOYMENT BENEFITS—SHARED WORK PROGRAM

AN ACT Relating to changing the unemployment insurance shared work program by adopting short-time compensation provisions in the federal middle class tax relief and job creation act of 2012; amending RCW 50.60.030, 50.60.090, and 50.60.110; reenacting and amending RCW 50.60.020; and creating a new section.

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

Sec. 1. RCW 50.60.020 and 2009 c 3 s 7 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) "Affected employee" means a specified employee, hired on a permanent basis, to which an approved shared work compensation plan applies.

(2) "Employers' association" means an association which is a party to a collective bargaining agreement under which there is a shared work compensation plan.

(3) (~~"Fringe benefits" include health insurance, retirement benefits under benefit pension plans as defined in section 3(35) of the employee retirement income security act of 1974, paid vacation and holidays, and sick leave, which are incidents of employment in addition to cash remuneration.~~

(4)) "Shared work benefits" means the benefits payable to an affected employee under an approved shared work compensation plan as distinguished from the benefits otherwise payable under this title.

~~((5))~~ (4) "Shared work compensation plan" means a plan of an employer, or of an employers' association, under which there is a reduction in the number of hours worked by employees rather than ~~((temporary))~~ layoffs.

~~((6))~~ (5) "Shared work employer" means an employer, ~~((one or more of whose))~~ who has at least two employees ((are)), and at least one employee is covered by a shared work compensation plan.

~~((7))~~ (6) "Unemployment compensation" means the benefits payable under this title other than shared work benefits and includes any amounts payable pursuant to an agreement under federal law providing for compensation, assistance, or allowances with respect to unemployment.

~~((8))~~ (7) "Usual weekly hours of work" means the ~~((normal))~~ regular number of hours of work ((for the affected employee when he or she is working on a full-time basis)) before the hours were reduced, not to exceed forty hours and not including overtime.

Sec. 2. RCW 50.60.030 and 2009 c 3 s 8 are each amended to read as follows:

An employer or employers' association wishing to participate in a shared work compensation program shall submit a written and signed shared work compensation plan to the commissioner for approval. The commissioner shall approve a shared work compensation plan only if the following criteria are met:

(1) The plan identifies the affected employees to which it applies;

(2) Each affected employee is identified by name, social security number, and by any other information required by the commissioner;

(3) The usual weekly hours of work for each affected employee are reduced by not less than ten percent and not more than fifty percent;

(4) ~~((Fringe))~~ The employer certifies health benefits will continue to be provided ((on)) under the same ((basis as before the reduction in work hours. In no event shall the level of health benefits be reduced due to a reduction in hours)) terms and conditions as when the affected employee worked his or her usual weekly hours of work. Affected employees must be allowed to maintain coverage under the same terms and conditions as employees not participating in the shared work compensation plan. However, a change in health benefits applicable to employees who are not participating in the shared work compensation plan may also apply to affected employees;

(5) The employer certifies retirement benefits under a defined benefit plan or contributions under a defined contribution plan will continue to be provided under the same terms and conditions as when the affected employee worked his or her usual weekly hours of work. Affected employees must be allowed to maintain coverage in the retirement plan under the same terms and conditions as employees not participating in the shared work compensation plan. However, a reduction in benefits under a defined benefit plan or a reduction in contributions under a defined contribution plan applicable to employees who are not participating in the shared work compensation plan may also apply to affected employees;

(6) The employer certifies paid vacation, holidays, and sick leave continue to be provided under the same terms and conditions as when the affected employee worked his or her usual weekly hours of work. Affected employees must be allowed to maintain these benefits under the same terms and conditions as employees not participating in the shared work compensation plan. However,

a reduction in these benefits applicable to employees who are not participating in the shared work compensation plan may also apply to affected employees;

~~((5))~~ (7) The plan certifies that the aggregate reduction in work hours for each affected employee is in lieu of ~~((temporary))~~ layoffs which would have resulted in an equivalent reduction in work hours;

~~((6))~~ (8) The plan is approved in writing by the collective bargaining agent for each collective bargaining agreement covering any affected employee;

~~((7))~~ (9) The plan will not subsidize seasonal employers during the off season ~~((nor subsidize employers who have traditionally used part-time employees; and~~

~~((8))~~;

(10) The employer agrees to furnish reports necessary for the proper administration of the plan and to permit access by the commissioner to all records necessary to verify the plan before approval and after approval to evaluate the application of the plan;

(11) The plan includes an estimate of the number of layoffs that would have occurred absent the ability to participate in shared work;

(12) The shared work compensation plan includes a plan to give advance notice, when feasible, to an employee whose usual weekly hours of work will be reduced. If not feasible, the shared work compensation plan must explain why it is not feasible; and

(13) The employer must attest that participation is consistent with employer obligations under federal and state law.

In addition to subsections (1) through ~~((8))~~ (13) of this section, the commissioner shall take into account any other factors which may be pertinent.

Sec. 3. RCW 50.60.090 and 2009 c 3 s 11 are each amended to read as follows:

An individual is eligible to receive shared work benefits with respect to any week only if, in addition to meeting the conditions of eligibility for other benefits under this title, the commissioner finds that:

(1) The individual was employed during that week as an affected employee under an approved shared work compensation plan which was in effect for that week;

(2) The ~~((individual))~~ affected employee was able to work and was available for ~~((additional hours of work and for full-time work))~~ his or her usual weekly hours of work with the shared work employer; and

(3) Notwithstanding any other provision of this chapter, an individual is deemed to have been unemployed in any week for which remuneration is payable to him or her as an affected employee for less than his or her normal weekly hours of work as specified under the approved shared work compensation plan in effect for that week.

Sec. 4. RCW 50.60.110 and 1983 c 207 s 11 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, shared work benefits shall be charged to employers' experience rating accounts in the same manner as other benefits under this title are charged. Employers liable for payments in lieu of contributions shall have shared work benefits attributed to their accounts in the same manner as other benefits under this title are attributed.

(2) For weeks of benefits paid between July 1, 2012, and June 28, 2015, any amount of shared work benefits reimbursed by the federal government is not charged to experience rating accounts of employers or to employers who are liable for payments in lieu of contributions. The department shall remove charges for any amount of shared work benefits reimbursed by the federal government between July 1, 2012, and the week prior to the effective date of this section.

NEW SECTION. Sec. 5. 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. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House March 8, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 80

[House Bill 1469]

INDUSTRIAL INSURANCE—HORSE RACING

AN ACT Relating to industrial insurance for horse racing employment; and amending RCW 51.16.210.

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

Sec. 1. RCW 51.16.210 and 1989 c 385 s 1 are each amended to read as follows:

(1) The department shall assess premiums, under the provisions of this section, for certain horse racing employments licensed in accordance with chapter 67.16 RCW. This premium assessment shall be for the purpose of providing industrial insurance coverage for employees of trainers licensed under chapter 67.16 RCW, including but not limited to exercise riders, pony riders, and grooms, and including all on or off track employment. ~~((For the purposes of RCW 51.16.210, 67.16.300, 51.16.140, 51.32.073, and 67.16.020 a hotwalker shall be considered a groom.))~~ The department may adopt rules under chapter 34.05 RCW to carry out the purposes of this section, including rules providing for alternative reporting periods and payment due dates for coverage under this section. The department rules shall ensure that no licensee licensed prior to May 13, 1989, shall pay more than the assessment fixed at the basic manual rate.

(2) The department shall compute industrial insurance premium rates ~~((on a per license basis, which))~~ and these premiums ~~((shall))~~ may be assessed at the time of each issuance or renewal of the license for owners, trainers, and grooms

in amounts established by department rule for coverage under this section. Premium assessments shall be determined in accordance with the requirements of this title, except that assessments shall not be experience rated and shall be fixed at the basic manual rate. However, rates may vary according to ~~((differences in working conditions at major tracks and fair tracks))~~ the risk insured, as determined according to rules adopted by the department and the Washington horse racing commission.

(3) For the purposes of paying premiums and assessments under this section and making reports under this title, individuals licensed as trainers by the Washington horse racing commission shall be considered employers. The premium assessment for a ~~((groom's license))~~ groom shall be paid by the trainer responsible for ~~((signing the groom's license application and shall be payable at the time of license issuance or renewal))~~ hiring the groom and is payable as required by the Washington horse racing commission.

(4) The fee to be assessed on owner licenses as required by this section shall not exceed one hundred fifty dollars. However, those owners having less than a full ownership in a horse or horses shall pay a percentage of the required license fee that is equal to the total percentage of the ownership that the owner has in the horse or horses. In no event shall an owner having an ownership percentage in more than one horse pay more than a one hundred fifty-dollar license fee. The assessment on each owner's license shall not imply that an owner is an employer, but shall be required as part of the privilege of holding an owner's license.

(5) Premium assessments under this section shall be collected by the Washington horse racing commission and deposited in the industrial insurance trust funds as provided under department rules.

Passed by the House February 25, 2013.

Passed by the Senate April 11, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 81

[Second Substitute House Bill 1518]

HEALTH PROFESSIONS—DISCIPLINARY AUTHORITIES

AN ACT Relating to providing certain disciplining authorities with additional authority over budget development, spending, and staffing; amending RCW 18.25.210, 18.71.430, 18.79.390, and 43.70.240; adding a new section to chapter 18.25 RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.79 RCW; repealing RCW 18.71.0191 and 18.79.130; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 18.25.210 and 2011 c 60 s 5 are each amended to read as follows:

(1) The commission may conduct a pilot project to evaluate the effect of granting the commission additional authority over budget development, spending, and staffing. If the commission intends to conduct a pilot project, it must provide a notice in writing to the secretary by ~~((June 1, 2008))~~ July 1, 2013. If the commission chooses to conduct a pilot project, the pilot project shall begin on July 1, ~~((2008))~~ 2013, and conclude on June 30, ~~((2013))~~ 2018.

(2) The pilot project shall include the following provisions:

(a) That the secretary shall employ an executive director that is:

(i) Hired by and serves at the pleasure of the commission;

(ii) Exempt from the provisions of the civil service law, chapter 41.06 RCW and whose salary is established by the commission in accordance with RCW 43.03.028; and

(iii) Responsible for performing all administrative duties of the commission, including preparing an annual budget, and any other duties as delegated to the executive director by the commission;

(b) Consistent with the budgeting and accounting act:

(i) With regard to budget for the remainder of the ((2007-2009)) 2013-2015 biennium, the commission has authority to spend the remaining funds allocated with respect to chiropractors licensed under this chapter; and

(ii) Beginning with the ((2009-2011)) 2015-2017 biennium, the commission is responsible for proposing its own biennial budget which the secretary must submit to the office of financial management;

(c) That, prior to adopting credentialing fees under RCW 43.70.250, the secretary shall collaborate with the commission to determine the appropriate fees necessary to support the activities of the commission;

(d) That, prior to the secretary exercising the secretary's authority to adopt uniform rules and guidelines, or any other actions that might impact the licensing or disciplinary authority of the commission, the secretary shall first meet with the commission to determine how those rules or guidelines, or changes to rules or guidelines, might impact the commission's ability to effectively carry out its statutory duties. If the commission, in consultation with the secretary, determines that the proposed rules or guidelines, or changes to existing rules or guidelines, will negatively impact the commission's ability to effectively carry out its statutory duties, then the individual commission shall collaborate with the secretary to develop alternative solutions to mitigate the impacts. If an alternative solution cannot be reached, the parties may resolve the dispute through a mediator as set forth in (f) of this subsection;

(e) That the commission shall negotiate with the secretary to develop performance-based expectations, including identification of key performance measures. The performance expectations should focus on consistent, timely regulation of health care professionals; and

(f) That in the event there is a disagreement between the commission and the secretary, that is unable to be resolved through negotiation, a representative of both parties shall agree on the designation of a third party to mediate the dispute.

(3) By December 15, ((2013)) 2017, the secretary(;;) and the commission(;; ~~and the other commissions conducting similar pilot projects under RCW 18.71.430, 18.79.390, and 18.32.765;~~) shall report to the governor and the legislature on the results of the pilot project. The report shall:

(a) Compare the effectiveness of licensing and disciplinary activities of ((each)) the commission during the pilot project with the licensing and disciplinary activities of the commission prior to the pilot project and the disciplinary activities of other disciplining authorities during the same time period as the pilot project;

(b) Compare the efficiency of ((each)) the commission with respect to the timeliness and personnel resources during the pilot project to the efficiency of

the commission prior to the pilot project and the efficiency of other disciplining authorities during the same period as the pilot project;

(c) Compare the budgetary activity of ~~((each))~~ the commission during the pilot project to the budgetary activity of the commission prior to the pilot project and to the budgetary activity of other disciplining authorities during the same period as the pilot project;

(d) Evaluate ~~((each))~~ the commission's regulatory activities, including timelines, consistency of decision making, and performance levels in comparison to other disciplining authorities; and

(e) Review summaries of national research and data regarding regulatory effectiveness and patient safety.

(4) The secretary shall employ staff that are hired and managed by the executive director provided that nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement.

NEW SECTION. Sec. 2. A new section is added to chapter 18.25 RCW to read as follows:

In addition to the authority provided in RCW 42.52.804, the commission, its members, or staff as directed by the commission, may communicate, present information requested, volunteer information, testify before legislative committees, and educate the legislature, as the commission may from time to time see fit.

Sec. 3. RCW 18.71.430 and 2011 c 60 s 7 are each amended to read as follows:

~~(1) The ((commission shall conduct a pilot project to evaluate the effect of granting the commission additional authority over budget development, spending, and staffing. The pilot project shall begin on July 1, 2008, and conclude on June 30, 2013.~~

~~(2) The pilot project shall include the following provisions:~~

~~(a) That the))~~ secretary shall employ an executive director that is:

~~((#))~~ (a) Hired by and serves at the pleasure of the commission;

~~((#))~~ (b) Exempt from the provisions of the civil service law, chapter 41.06 RCW and whose salary is established by the commission in accordance with RCW 43.03.028; and

~~((#))~~ (c) Responsible for performing all administrative duties of the commission, including preparing an annual budget, and any other duties as delegated to the executive director by the commission(~~(;~~

~~(b))~~;

(2) Consistent with the budgeting and accounting act(~~(;~~

~~(i) With regard to budget for the remainder of the 2007-2009 biennium, the commission has authority to spend the remaining funds allocated with respect to its professions, physicians regulated under this chapter and physician assistants regulated under chapter 18.71A RCW; and~~

~~(ii) Beginning with the 2009-2011 biennium)),~~ the commission is responsible for proposing its own biennial budget which the secretary must submit to the office of financial management(~~(;~~

~~(e) That,))~~;

(3) Prior to adopting credentialing fees under RCW 43.70.250, the secretary shall collaborate with the commission to determine the appropriate fees necessary to support the activities of the commission(~~;~~

~~(d) That,))~~).

(4) Prior to the secretary exercising the secretary's authority to adopt uniform rules and guidelines, or any other actions that might impact the licensing or disciplinary authority of the commission, the secretary shall first meet with the commission to determine how those rules or guidelines, or changes to rules or guidelines, might impact the commission's ability to effectively carry out its statutory duties. If the commission, in consultation with the secretary, determines that the proposed rules or guidelines, or changes to existing rules or guidelines, will negatively impact the commission's ability to effectively carry out its statutory duties, then the individual commission shall collaborate with the secretary to develop alternative solutions to mitigate the impacts. If an alternative solution cannot be reached, the parties may resolve the dispute through a mediator as set forth in ~~((f) of this subsection;~~

~~(e) That))~~ subsection (6) of this section.

(5) The commission shall negotiate with the secretary to develop performance-based expectations, including identification of key performance measures. The performance expectations should focus on consistent, timely regulation of health care professionals(~~;~~~~and~~

~~(f) That,))~~).

(6) In the event there is a disagreement between the commission and the secretary, that is unable to be resolved through negotiation, a representative of both parties shall agree on the designation of a third party to mediate the dispute.

~~((3) By December 15, 2013, the secretary, the commission, and the other commissions conducting similar pilot projects under RCW 18.79.390, 18.25.210, and 18.32.765, shall report to the governor and the legislature on the results of the pilot project. The report shall:~~

~~(a) Compare the effectiveness of licensing and disciplinary activities of each commission during the pilot project with the licensing and disciplinary activities of the commission prior to the pilot project and the disciplinary activities of other disciplining authorities during the same time period as the pilot project;~~

~~(b) Compare the efficiency of each commission with respect to the timeliness and personnel resources during the pilot project to the efficiency of the commission prior to the pilot project and the efficiency of other disciplining authorities during the same period as the pilot project;~~

~~(c) Compare the budgetary activity of each commission during the pilot project to the budgetary activity of the commission prior to the pilot project and to the budgetary activity of other disciplining authorities during the same period as the pilot project;~~

~~(d) Evaluate each commission's regulatory activities, including timelines, consistency of decision making, and performance levels in comparison to other disciplining authorities; and~~

~~(e) Review summaries of national research and data regarding regulatory effectiveness and patient safety.~~

~~(4))~~ (7) The secretary shall employ staff that are hired and managed by the executive director provided that nothing contained in this section may be

construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement.

NEW SECTION. Sec. 4. A new section is added to chapter 18.71 RCW to read as follows:

In addition to the authority provided in RCW 42.52.804, the commission, its members, or staff as directed by the commission, may communicate, present information requested, volunteer information, testify before legislative committees, and educate the legislature, as the commission may from time to time see fit.

Sec. 5. RCW 18.79.390 and 2011 c 60 s 8 are each amended to read as follows:

~~(1) The ((commission shall conduct a pilot project to evaluate the effect of granting the commission additional authority over budget development, spending, and staffing. The pilot project shall begin on July 1, 2008, and conclude on June 30, 2013.~~

~~(2) The pilot project shall include the following provisions:~~

~~(a) That the)) secretary shall employ an executive director that is:~~

~~((i)) (a) Hired by and serves at the pleasure of the commission;~~

~~((ii)) (b) Exempt from the provisions of the civil service law, chapter 41.06 RCW and whose salary is established by the commission in accordance with RCW 43.03.028; and~~

~~((iii)) (c) Responsible for performing all administrative duties of the commission, including preparing an annual budget, and any other duties as delegated to the executive director by the commission((;~~

~~(b)).~~

~~(2) Consistent with the budgeting and accounting act((;~~

~~(i) With regard to budget for the remainder of the 2007-2009 biennium, the commission has authority to spend the remaining funds allocated with respect to advanced registered nurses, registered nurses, and licensed practical nurses regulated under this chapter; and~~

~~(ii) Beginning with the 2009-2011 biennium)), the commission is responsible for proposing its own biennial budget which the secretary must submit to the office of financial management((;~~

~~(e) That,)).~~

~~(3) Prior to adopting credentialing fees under RCW 43.70.250, the secretary shall collaborate with the commission to determine the appropriate fees necessary to support the activities of the commission((;~~

~~(d) That,)).~~

~~(4) Prior to the secretary exercising the secretary's authority to adopt uniform rules and guidelines, or any other actions that might impact the licensing or disciplinary authority of the commission, the secretary shall first meet with the commission to determine how those rules or guidelines, or changes to rules or guidelines, might impact the commission's ability to effectively carry out its statutory duties. If the commission, in consultation with the secretary, determines that the proposed rules or guidelines, or changes to existing rules or guidelines, will negatively impact the commission's ability to effectively carry out its statutory duties, then the individual commission shall collaborate with the secretary to develop alternative solutions to mitigate the~~

impacts. If an alternative solution cannot be reached, the parties may resolve the dispute through a mediator as set forth in ~~((f) of this subsection;~~

~~(e) That))~~ subsection (6) of this section.

(5) The commission shall negotiate with the secretary to develop performance-based expectations, including identification of key performance measures. The performance expectations should focus on consistent, timely regulation of health care professionals~~(-and~~

~~(f) That)).~~

(6) In the event there is a disagreement between the commission and the secretary, that is unable to be resolved through negotiation, a representative of both parties shall agree on the designation of a third party to mediate the dispute.

~~((3) By December 15, 2013, the secretary, the commission, and the other commissions conducting similar pilot projects under RCW 18.71.430, 18.25.210, and 18.32.765, shall report to the governor and the legislature on the results of the pilot project. The report shall:~~

~~(a) Compare the effectiveness of licensing and disciplinary activities of each commission during the pilot project with the licensing and disciplinary activities of the commission prior to the pilot project and the disciplinary activities of other disciplining authorities during the same time period as the pilot project;~~

~~(b) Compare the efficiency of each commission with respect to the timeliness and personnel resources during the pilot project to the efficiency of the commission prior to the pilot project and the efficiency of other disciplining authorities during the same period as the pilot project;~~

~~(c) Compare the budgetary activity of each commission during the pilot project to the budgetary activity of the commission prior to the pilot project and to the budgetary activity of other disciplining authorities during the same period as the pilot project;~~

~~(d) Evaluate each commission's regulatory activities, including timelines, consistency of decision making, and performance levels in comparison to other disciplining authorities; and~~

~~(e) Review summaries of national research and data regarding regulatory effectiveness and patient safety.~~

~~(4))~~ (7) The secretary shall employ staff that are hired and managed by the executive director provided that nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement.

(8) By December 31, 2013, the commission must present a report with recommendations to the governor and the legislature regarding:

(a) Evidence-based practices and research-based practices used by boards of nursing when conducting licensing, educational, disciplinary, and financial activities and the use of such practices by the commission; and

(b) A comparison of the commission's licensing, education, disciplinary, and financial outcomes with those of other boards of nursing using a national database.

NEW SECTION. Sec. 6. A new section is added to chapter 18.79 RCW to read as follows:

In addition to the authority provided in RCW 42.52.804, the commission, its members, or staff as directed by the commission, may communicate, present information requested, volunteer information, testify before legislative

committees, and educate the legislature, as the commission may from time to time see fit.

Sec. 7. RCW 43.70.240 and 1998 c 245 s 73 are each amended to read as follows:

The secretary and each of the professional licensing and disciplinary boards ~~((under the administration of the department))~~ listed in RCW 18.130.040(2)(b) shall enter into written operating agreements on administrative procedures with input from the regulated profession and the public. The intent of these agreements is to provide a process for the department to consult each board on administrative matters and to ensure that the administration and staff functions effectively enable each board to fulfill its statutory responsibilities in a manner that supports the health care delivery system and evidence-based practices across all health professions. The agreements shall include, but not be limited to, the following provisions:

(1) Administrative activities supporting the board's policies, goals, and objectives;

(2) Development and review of the agency budget as it relates to the board; ~~((and))~~

(3) Board related personnel issues;

(4) Use of performance audits to evaluate the consistent use of common business practices where appropriate; and

(5) Calculation and reporting of timelines and performance measures.

The agreements shall be reviewed and revised in like manner if appropriate at the beginning of each ~~((fiscal year))~~ biennium, and at other times upon written request by the secretary or the board. Any dispute between a board and the department, including the terms of the operating agreement, must be mediated and determined by a representative of the office of financial management.

NEW SECTION. **Sec. 8.** The following acts or parts of acts are each repealed:

(1) RCW 18.71.0191 (Executive director—Staff) and 1994 sp.s. c 9 s 326, 1991 c 3 s 168, & 1979 ex.s. c 111 s 6; and

(2) RCW 18.79.130 (Executive director—Staff) and 1994 sp.s. c 9 s 413.

NEW SECTION. **Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2013.

Passed by the House March 11, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 82

[House Bill 1533]

CIVIL PROCEDURE—HEALTH CARE ACTIONS—NOTICE OF CLAIMS

AN ACT Relating to clarifying notice of claims in health care actions; and amending RCW 7.70.100.

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

Sec. 1. RCW 7.70.100 and 2007 c 119 s 1 are each amended to read as follows:

~~(1) ((No action based upon a health care provider's professional negligence may be commenced unless the defendant has been given at least ninety days' notice of the intention to commence the action. The notice required by this section shall be given by regular mail, registered mail, or certified mail with return receipt requested, by depositing the notice, with postage prepaid, in the post office addressed to the defendant. If the defendant is a health care provider entity defined in RCW 7.70.020(3) or, at the time of the alleged professional negligence, was acting as an actual agent or employee of such a health care provider entity, the notice may be addressed to the chief executive officer, administrator, office of risk management, if any, or registered agent for service of process, if any, of such health care provider entity. Notice for a claim against a local government entity shall be filed with the agent as identified in RCW 4.96.020(2). Proof of notice by mail may be made in the same manner as that prescribed by court rule or statute for proof of service by mail. If the notice is served within ninety days of the expiration of the applicable statute of limitations, the time for the commencement of the action must be extended ninety days from the date the notice was mailed, and after the ninety-day extension expires, the claimant shall have an additional five court days to commence the action.~~

~~(2) The provisions of subsection (1) of this section are not applicable with respect to any defendant whose name is unknown to the plaintiff at the time of filing the complaint and who is identified therein by a fictitious name.~~

~~(3) After the filing of the ninety-day presuit notice, and))~~ Before a superior court trial, all causes of action, whether based in tort, contract, or otherwise, for damages arising from injury occurring as a result of health care provided after July 1, 1993, shall be subject to mandatory mediation prior to trial except as provided in subsection ~~((6))~~ (4) of this section.

~~((4))~~ (2) The supreme court shall by rule adopt procedures to implement mandatory mediation of actions under this chapter. The implementation contemplates the adoption of rules by the supreme court which will require mandatory mediation without exception unless subsection ~~((6))~~ (4) of this section applies. The rules on mandatory mediation shall address, at a minimum:

(a) Procedures for the appointment of, and qualifications of, mediators. A mediator shall have experience or expertise related to actions arising from injury occurring as a result of health care, and be a member of the state bar association who has been admitted to the bar for a minimum of five years or who is a retired judge. The parties may stipulate to a nonlawyer mediator. The court may prescribe additional qualifications of mediators;

(b) Appropriate limits on the amount or manner of compensation of mediators;

(c) The number of days following the filing of a claim under this chapter within which a mediator must be selected;

(d) The method by which a mediator is selected. The rule shall provide for designation of a mediator by the superior court if the parties are unable to agree upon a mediator;

(e) The number of days following the selection of a mediator within which a mediation conference must be held;

(f) A means by which mediation of an action under this chapter may be waived by a mediator who has determined that the claim is not appropriate for mediation; and

(g) Any other matters deemed necessary by the court.

~~((5))~~ (3) Mediators shall not impose discovery schedules upon the parties.

~~((6))~~ (4) The mandatory mediation requirement of subsection ~~((4))~~ (2) of this section does not apply to an action subject to mandatory arbitration under chapter 7.06 RCW or to an action in which the parties have agreed, subsequent to the arising of the claim, to submit the claim to arbitration under chapter 7.04A or 7.70A RCW.

~~((7))~~ (5) The implementation also contemplates the adoption of a rule by the supreme court for procedures for the parties to certify to the court the manner of mediation used by the parties to comply with this section.

Passed by the House March 4, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 83

[Substitute House Bill 1537]

PUBLIC EMPLOYMENT—VETERANS—PREFERENCE

AN ACT Relating to a veteran's preference for the purpose of public employment; and amending RCW 41.04.010.

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

Sec. 1. RCW 41.04.010 and 2009 c 248 s 1 are each amended to read as follows:

In all competitive examinations, unless otherwise provided in this section, to determine the qualifications of applicants for public offices, positions, or employment, either the state, and all of its political subdivisions and all municipal corporations, or private companies or agencies contracted with by the state to give the competitive examinations shall give a scoring criteria status to all veterans as defined in RCW 41.04.007, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance with the following:

(1) Ten percent to a veteran who served during a period of war or in an armed conflict as defined in RCW 41.04.005 and does not receive military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(2) Five percent to a veteran who did not serve during a period of war or in an armed conflict as defined in RCW 41.04.005 or is receiving military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(3) Five percent to a veteran who was called to active military service from employment with the state or any of its political subdivisions or municipal

corporations. The percentage shall be added to promotional examinations until the first promotion only;

(4) All veterans' scoring criteria may be claimed upon release from active military service or upon receipt of separation orders indicating an honorable discharge, issued by the respective military department.

Passed by the House March 13, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor April 25, 2013.

Filed in Office of Secretary of State April 25, 2013.

CHAPTER 84

[Engrossed Substitute House Bill 1383]

PROTECTION ORDERS—STALKING AND HARASSMENT

AN ACT Relating to protection orders for stalking and harassment; amending RCW 9.41.800, 9.94A.535, 9A.46.040, 9A.46.110, 10.14.070, and 10.31.100; reenacting and amending RCW 26.50.110; adding new sections to chapter 10.14 RCW; adding a new section to chapter 9A.46 RCW; adding a new chapter to Title 7 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. Stalking is a crime that affects 3.4 million people over the age of eighteen each year in the United States. Almost half of those victims experience at least one unwanted contact per week. Twenty-nine percent of stalking victims fear that the stalking will never stop. The prevalence of anxiety, insomnia, social dysfunction, and severe depression is much higher among stalking victims than the general population. Three in four stalking victims are stalked by someone they know, and at least thirty percent of stalking victims are stalked by a current or former intimate partner. For many of those victims, the domestic violence protection order is a tool they can access to help them stay safer. For those who have not had an intimate relationship with the person stalking them, there are few remedies for them under the law. Victims who do not report the crime still desire safety and protection from future interactions with the offender. Some cases in which the stalking is reported are not prosecuted. In these situations, the victim should be able to seek a civil remedy requiring that the offender stay away from the victim. It is the intent of the legislature that the stalking protection order created by this chapter be a remedy for victims who do not qualify for a domestic violence order of protection. Moreover, it is the intent of the legislature that courts specifically distinguish stalking conduct covered by the stalking protection order from common acts of harassment or nuisance covered by antiharassment orders. Law enforcement agencies need to be able to rely on orders that distinguish stalking conduct from common acts of harassment or nuisance. Victims of stalking conduct deserve the same protection and access to the court system as victims of domestic violence and sexual assault, and this protection can be accomplished without infringing on constitutionally protected speech or activity. The legislature finds that preventing the issuance of conflicting orders is in the interest of both petitioners and respondents.

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

(1) "Minor" means a person who is under eighteen years of age.

(2) "Petitioner" means any named petitioner for the stalking protection order or any named victim of stalking conduct on whose behalf the petition is brought.

(3) "Stalking conduct" means any of the following:

(a) Any act of stalking as defined under RCW 9A.46.110;

(b) Any act of cyberstalking as defined under RCW 9.61.260;

(c) Any course of conduct involving repeated or continuing contacts, attempts to contact, monitoring, tracking, keeping under observation, or following of another that:

(i) Would cause a reasonable person to feel intimidated, frightened, or threatened and that actually causes such a feeling;

(ii) Serves no lawful purpose; and

(iii) The stalker knows or reasonably should know threatens, frightens, or intimidates the person, even if the stalker did not intend to intimidate, frighten, or threaten the person.

(4) "Stalking no-contact order" means a temporary order or a final order granted under this chapter against a person charged with or arrested for stalking, which includes a remedy authorized under section 16 of this act.

(5) "Stalking protection order" means an ex parte temporary order or a final order granted under this chapter, which includes a remedy authorized in section 10 of this act.

NEW SECTION. Sec. 3. There shall exist an action known as a petition for a stalking protection order.

(1) A petition for relief shall allege the existence of stalking conduct and shall be accompanied by an affidavit made under oath stating the specific reasons that have caused the petitioner to become reasonably fearful that the respondent intends to injure the petitioner or another person, or the petitioner's property or the property of another. The petition shall disclose the existence of any other litigation or of any other restraining, protection, or no-contact orders between the parties.

(2) A petition for relief shall be filed as a separate, stand-alone civil case and a petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(3) Forms and instructional brochures and the necessary number of certified copies shall be provided to the petitioner free of charge.

(4) A person is not required to post a bond to obtain relief in any proceeding under this section.

(5) If the petition states that disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, that address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notice of any motions.

NEW SECTION. Sec. 4. A petition for a stalking protection order may be filed by a person:

(1) Who does not qualify for a protection order under chapter 26.50 RCW and who is a victim of stalking conduct; or

(2) On behalf of any of the following persons who is a victim of stalking conduct and who does not qualify for a protection order under chapter 26.50 RCW:

(a) A minor child, where the petitioner is a parent, a legal custodian, or, where the respondent is not a parent, an adult with whom the child is currently residing; or

(b) A vulnerable adult as defined in RCW 74.34.020 and where the petitioner is an interested person as defined in RCW 74.34.020(10).

NEW SECTION. Sec. 5. (1) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of stalking conduct committed by the respondent.

(2) A minor sixteen years of age or older may seek relief under this chapter and is not required to seek relief through a guardian or next friend. This does not preclude a parent or legal custodian of a victim sixteen or seventeen years of age from seeking relief on behalf of the minor.

(3) The district courts shall have original jurisdiction and cognizance of any civil actions and proceedings brought under this chapter, except a district court shall transfer such actions and proceedings to the superior court when it is shown that (a) the petitioner, victim, or respondent to the petition is under eighteen years of age; (b) the action involves title or possession of real property; (c) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (d) the action would have the effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

(4) Municipal courts may exercise jurisdiction and cognizance of any civil actions and proceedings brought under this chapter by adoption of local court rule, except a municipal court shall transfer such actions and proceedings to the superior court when it is shown that (a) the petitioner, victim, or respondent to the petition is under eighteen years of age; (b) the action involves title or possession of real property; (c) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (d) the action would have the effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

(5) Superior courts shall have concurrent jurisdiction to receive transfer of stalking petitions in cases where a district or municipal court judge makes findings of fact and conclusions of law showing that meritorious reasons exist for the transfer. The jurisdiction of district and municipal courts is limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders provided for in section 12 of this act if the superior court is exercising jurisdiction over a proceeding under this chapter involving the parties.

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

(7) If a guardian ad litem is appointed for the petitioner or respondent, the petitioner shall not be required to pay any fee associated with such appointment.

(8) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid stalking conduct. In that case, the petitioner

may bring an action in the county or municipality of the previous or the new residence or household.

NEW SECTION. Sec. 6. Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. The court may schedule a hearing by telephone, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further stalking behavior. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. Except as provided in section 15 of this act, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall require additional attempts at obtaining personal service or other service as permitted under section 15 of this act. The court may issue an ex parte temporary stalking order pending the hearing as provided in section 12 of this act.

NEW SECTION. Sec. 7. Before granting an order under this chapter, the court may consult the judicial information system, if available, to determine criminal history or the pendency of other proceedings involving the parties.

NEW SECTION. Sec. 8. No fees for filing or service of process may be charged by a public agency to petitioners seeking relief under this chapter.

NEW SECTION. Sec. 9. Victim advocates shall be allowed to accompany the victim and confer with the victim, unless otherwise directed by the court. Court administrators shall allow advocates to assist victims of stalking conduct in the preparation of petitions for stalking protection orders. Advocates are not engaged in the unauthorized practice of law when providing assistance of the types specified in this section.

NEW SECTION. Sec. 10. (1)(a) If the court finds by a preponderance of the evidence that the petitioner has been a victim of stalking conduct by the respondent, the court shall issue a stalking protection order.

(b) The petitioner shall not be denied a stalking protection order because the petitioner or the respondent is a minor or because the petitioner did not report the stalking conduct to law enforcement. The court, when determining whether or not to issue a stalking protection order, may not require proof of the respondent's intentions regarding the acts alleged by the petitioner. Modification and extension of prior stalking protection orders shall be in accordance with this chapter.

(2) The court may provide relief as follows:

(a) Restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties regardless of whether those third parties know of the order;

(b) Exclude the respondent from the petitioner's residence, workplace, or school, or from the day care, workplace, or school of the petitioner's minor children;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) Prohibit the respondent from keeping the petitioner and/or the petitioner's minor children under surveillance, to include electronic surveillance;

(e) Order any other injunctive relief as necessary or appropriate for the protection of the petitioner, to include a mental health and/or chemical dependency evaluation; and

(f) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees.

(3) Unless otherwise stated in the order, when a person is petitioning on behalf of a minor child or vulnerable adult, the relief authorized in this section shall apply only for the protection of the victim, and not the petitioner.

(4) In cases where the petitioner and the respondent attend the same public or private elementary, middle, or high school, the court, when issuing a protection order and providing relief, shall consider, among the other facts of the case, the severity of the act, any continuing physical danger or emotional distress to the petitioner, and the expense difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the person restrained in the order not attend the public or approved private elementary, middle, or high school attended by the person protected by the order. In the event the court orders a transfer of the restrained person to another school, the parents or legal guardians of the person restrained in the order are responsible for transportation and other costs associated with the change of school by the person restrained in the order. The court shall send notice of the restriction on attending the same school as the person protected by the order to the public or approved private school the person restrained by the order will attend and to the school the person protected by the order attends.

NEW SECTION. Sec. 11. For the purposes of issuing a stalking protection order, deciding what relief should be included in the order, and enforcing the order, RCW 9A.08.020 shall govern whether the respondent is legally accountable for the conduct of another person.

NEW SECTION. Sec. 12. (1) Where it appears from the petition and any additional evidence that the respondent has engaged in stalking conduct and that irreparable injury could result if an order is not issued immediately without prior notice, the court may grant an ex parte temporary order for protection, pending a full hearing and grant such injunctive relief as it deems proper, including the relief as specified under section 10 (2)(a) through (d) and (4) of this act.

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

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

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

copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

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

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

(7) A knowing violation of a court order issued under this section is punishable under RCW 26.50.110.

NEW SECTION. Sec. 13. (1) Except as otherwise provided in this section or section 16 of this act, a final stalking protection order shall be effective for a fixed period of time or be permanent.

(2) Any ex parte temporary or final stalking protection order may be renewed one or more times. The petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. If the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested renewal. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of stalking conduct against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the stalking protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in section 10 of this act.

(3) Any stalking protection order which would expire on a court holiday shall instead expire at the close of the next court business day.

(4) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a stalking protection order undermines the purposes of this chapter. This section shall not be construed as encouraging that practice.

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

NEW SECTION. Sec. 14. (1) Any stalking protection order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(2) A stalking protection order shall further state the following:

(a) The name of the petitioner that the court finds was the victim of stalking by the respondent;

(b) The date and time the stalking protection order was issued, whether it is an ex parte temporary or final order, and the duration of the order;

(c) The date, time, and place for any scheduled hearing for renewal of that stalking protection order or for another order of greater duration or scope;

(d) For each remedy in an ex parte temporary stalking protection order, the reason for entering that remedy without prior notice to the respondent or greater notice than was actually given;

(e) For ex parte temporary stalking protection orders, that the respondent may petition the court, to modify or terminate the order if he or she did not receive actual prior notice of the hearing and if the respondent alleges that he or she had a meritorious defense to the order or that the order or its remedy is not authorized by this chapter.

(3) A stalking protection order shall include the following notice, printed in conspicuous type: "A knowing violation of this stalking protection order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

NEW SECTION. Sec. 15. (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6), (7), or (8) of this section. If the respondent is a minor, the respondent's parent or legal custodian shall also be personally served.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer or private process server files an affidavit stating that the officer or private process server was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer or private process server made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the respondent is avoiding service;

(c) The server has deposited a copy of the petition, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address;

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome;

(e) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication; and

(f) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the court of the state of Washington for the county of

., Petitioner

vs.

No.

., Respondent

The state of Washington to (respondent):

You are hereby summoned to appear on the day of, 20, at a.m./p.m., and respond to the petition. If you fail to respond, an order of protection will be issued against you pursuant to the provisions of the stalking protection order act, chapter 7.—RCW (the new chapter created in section 33 of this act), for a minimum of one year from the date you are required to appear. A temporary order of protection has been issued against you, restraining you from the following: (Insert a brief statement of the provisions of the ex parte order.) A copy of the petition, notice of hearing, and ex parte order has been filed with the clerk of this court.

.
Petitioner

(8) In circumstances justifying service by publication under subsection (7) of this section, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication and that the serving party is unable to afford the cost of service by publication, the court may order that service be made by mail. Such service shall be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the order and other process to the party to be served at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first-class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(a) Proof of service under this section shall be consistent with court rules for civil proceedings.

(b) Service under this section may be used in the same manner and shall have the same jurisdictional effect as service by publication for purposes of this chapter. Service shall be deemed complete upon the mailing of two copies as prescribed in this section.

NEW SECTION. Sec. 16. (1)(a) When any person charged with or arrested for stalking as defined in RCW 9A.46.110 or any other stalking related offense under RCW 9A.46.060 is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, and the victim does not qualify for a domestic violence protection order under chapter 26.50 RCW, the court authorizing release may issue, by telephone, a stalking no-contact order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

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

(c) The stalking no-contact order shall also be issued in writing as soon as possible.

(2)(a) At the time of arraignment or whenever a motion is brought to modify the conditions of the defendant's release, the court shall determine whether a stalking no-contact order shall be issued or extended. If a stalking no-contact order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring, including real-time global position satellite monitoring with victim notification. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring, including costs relating to real-time global position satellite monitoring with victim notification.

(b) A stalking no-contact order issued by the court in conjunction with criminal charges shall terminate if the defendant is acquitted or the charges are

dismissed, unless the victim files an independent action for a stalking protection order. If the victim files an independent action for a civil stalking protection order, the order may be continued by the court until a full hearing is conducted pursuant to section 6 of this act.

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

(b) A certified copy of the order shall be provided to the victim at no charge.

(4) If a stalking no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed.

(5) Whenever an order prohibiting contact is issued pursuant to subsection (2) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order for one year unless a different expiration date is specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

(6)(a) When a defendant is found guilty of stalking as defined in RCW 9A.46.110 or any other stalking related offense under RCW 9A.46.060 and a condition of the sentence restricts the defendant's ability to have contact with the victim, and the victim does not qualify for a domestic violence protection order under chapter 26.50 RCW, the condition shall be recorded as a stalking no-contact order.

(b) The written order entered as a condition of sentencing shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A final stalking no-contact order entered in conjunction with a criminal prosecution shall remain in effect for a period of five years from the date of entry.

(d) A certified copy of the order shall be provided to the victim at no charge.

(7) A knowing violation of a court order issued under subsection (1), (2), or (6) of this section is punishable under RCW 26.50.110.

(8) Whenever a stalking no-contact order is issued, modified, or terminated under subsection (1), (2), or (6) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order for one year unless a

different expiration date is specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (2) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

NEW SECTION. Sec. 17. (1) In a proceeding in which a petition for a stalking protection order is sought under this chapter, a court of this state may exercise personal jurisdiction over a nonresident individual if:

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 18. (1) A copy of a stalking protection order or stalking no-contact order granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law

enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall immediately enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order shall remain in the computer for one year unless a different expiration date is specified on the order. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system. The law enforcement agency shall only expunge from the computer-based criminal intelligence information system orders that are expired, vacated, terminated, or superseded. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based criminal intelligence information system shall include notice to law enforcement whether the order was personally served, served by publication, or served by mail.

NEW SECTION. Sec. 19. (1) Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing stalking protection order.

(2) A respondent's motion to modify or terminate an existing stalking protection order must include a declaration setting forth facts supporting the requested order for termination or modification. The nonmoving parties to the proceeding may file opposing declarations. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the declarations. If the court finds that the respondent established adequate cause, the court shall set a date for hearing the respondent's motion.

(3) The court may not terminate or modify an existing stalking protection order unless the respondent proves by a preponderance of the evidence that there has been a substantial change in circumstances such that the respondent will not resume acts of stalking conduct against the petitioner or those persons protected by the protection order if the order is terminated or modified. The petitioner bears no burden of proving that he or she has a current reasonable fear of harm by the respondent.

(4) A court may require the respondent to pay the petitioner for costs incurred in responding to a motion to terminate or modify a stalking protection order, including reasonable attorneys' fees.

(5) In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the computer-based criminal intelligence information system, or if the order is terminated, remove the order from the computer-based criminal intelligence information system.

NEW SECTION. Sec. 20. A new section is added to chapter 10.14 RCW to read as follows:

In each county, the superior court may appoint one or more attorneys to act as protection order commissioners pursuant to this chapter to exercise all powers and perform all duties of a court commissioner appointed pursuant to RCW

2.24.010 provided that such positions may not be created without prior consent of the county legislative authority. A person appointed as a protection order commissioner under this chapter may also be appointed to any other commissioner position authorized by law.

NEW SECTION. Sec. 21. A new section is added to chapter 10.14 RCW to read as follows:

The legislature respectfully requests that:

(1) By January 1, 2014, the administrative office of the courts shall develop a single master petition pattern form for all antiharassment and stalking protection orders issued under chapter 7.—RCW (the new chapter created in section 33 of this act) and this chapter. The master petition must prompt petitioners to disclose on the form whether the petitioner who is seeking an ex parte order has experienced stalking conduct as defined in section 2 of this act. An antiharassment order and stalking protection order issued under chapter 7.—RCW (the new chapter created in section 33 of this act) and this chapter must substantially comply with the pattern form developed by the administrative office of the courts.

(2) The Washington state supreme court gender and justice commission, to the extent it is able, in consultation with Washington coalition of sexual assault programs, Washington state coalition against domestic violence, Washington association of prosecuting attorneys, Washington association of criminal defense lawyers, and Washington association of sheriffs and police chiefs, consider other potential solutions to reduce confusion about which type of protection order a petitioner should seek and to provide any recommendations to the legislature by January 1, 2014.

NEW SECTION. Sec. 22. An ex parte temporary order issued under this chapter shall not be admissible as evidence in any subsequent civil action for damages arising from the conduct alleged in the petition or the order.

NEW SECTION. Sec. 23. Nothing in this chapter shall be construed as requiring criminal charges to be filed as a condition of a stalking protection order being issued.

NEW SECTION. Sec. 24. This act may be known and cited as the Jennifer Paulson stalking protection order act.

Sec. 25. RCW 9.41.800 and 2002 c 302 s 704 are each amended to read as follows:

(1) Any court when entering an order authorized under chapter 7.—RCW (the new chapter created in section 33 of this act), RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 shall, upon a showing by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or previously committed any offense that makes him or her ineligible to possess a firearm under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;
 (b) Require the party to surrender any concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(2) Any court when entering an order authorized under chapter 7.—RCW (the new chapter created in section 33 of this act), RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, 26.50.060, 26.50.070, or 26.26.590 may, upon a showing by a preponderance of the evidence but not by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or previously committed any offense that makes him or her ineligible to possess a pistol under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;

(b) Require the party to surrender a concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(3) The court may order temporary surrender of a firearm or other dangerous weapon without notice to the other party if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury could result if an order is not issued until the time for response has elapsed.

(4) In addition to the provisions of subsections (1), (2), and (3) of this section, the court may enter an order requiring a party to comply with the provisions in subsection (1) of this section if it finds that the possession of a firearm or other dangerous weapon by any party presents a serious and imminent threat to public health or safety, or to the health or safety of any individual.

(5) The requirements of subsections (1), (2), and (4) of this section may be for a period of time less than the duration of the order.

(6) The court may require the party to surrender any firearm or other dangerous weapon in his or her immediate possession or control or subject to his or her immediate possession or control to the sheriff of the county having jurisdiction of the proceeding, the chief of police of the municipality having jurisdiction, or to the restrained or enjoined party's counsel or to any person designated by the court.

Sec. 26. RCW 9.94A.535 and 2011 c 87 s 1 are each amended to read as follows:

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

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

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

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

(1) Mitigating Circumstances - Court to Consider

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 27. RCW 9A.46.040 and 2012 c 223 s 1 are each amended to read as follows:

(1) Because of the likelihood of repeated harassment directed at those who have been victims of harassment in the past, when any defendant charged with a crime involving harassment is released from custody before trial on bail or personal recognizance, the court authorizing the release may issue an order pursuant to this chapter and require that the defendant:

(a) Stay away from the home, school, business, or place of employment of the victim or victims of the alleged offense or other location, as shall be specifically named by the court in the order;

(b) Refrain from contacting, intimidating, threatening, or otherwise interfering with the victim or victims of the alleged offense and such other persons, including but not limited to members of the family or household of the victim, as shall be specifically named by the court in the order.

(2) Willful violation of a court order issued under this section or an equivalent local ordinance is a gross misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 9A.46 RCW. A certified copy of the order shall be provided to the victim by the clerk of the court.

(3) If the defendant is charged with the crime of stalking or any other stalking related offense under RCW 9A.46.060, and the court issues an order protecting the victim, the court shall issue a stalking no-contact order pursuant to chapter 7.— RCW (the new chapter created in section 33 of this act).

NEW SECTION. Sec. 28. A new section is added to chapter 9A.46 RCW to read as follows:

(1) A defendant arrested for stalking as defined by RCW 9A.46.110 shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) At the time of appearance provided in subsection (1) of this section the court shall determine the necessity of imposing a stalking no-contact order under chapter 7.— RCW (the new chapter created in section 33 of this act).

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

(4) The stalking no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outlined in chapter 7.— RCW (the new chapter created in section 33 of this act).

Sec. 29. RCW 9A.46.110 and 2007 c 201 s 1 are each amended to read as follows:

(1) A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

(a) He or she intentionally and repeatedly harasses or repeatedly follows another person; and

(b) The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and

(c) The stalker either:

(i) Intends to frighten, intimidate, or harass the person; or

(ii) Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(2)(a) It is not a defense to the crime of stalking under subsection (1)(c)(i) of this section that the stalker was not given actual notice that the person did not want the stalker to contact or follow the person; and

(b) It is not a defense to the crime of stalking under subsection (1)(c)(ii) of this section that the stalker did not intend to frighten, intimidate, or harass the person.

(3) It shall be a defense to the crime of stalking that the defendant is a licensed private investigator acting within the capacity of his or her license as provided by chapter 18.165 RCW.

(4) Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person. "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

(5)(a) Except as provided in (b) of this subsection, a person who stalks another person is guilty of a gross misdemeanor.

(b) A person who stalks another is guilty of a class ((C)) B felony if any of the following applies: (i) The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a protective order; (ii) the stalking violates any protective order protecting the person being stalked; (iii) the stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section

for stalking another person; (iv) the stalker was armed with a deadly weapon, as defined in RCW ((9.94A.602)) 9.94A.825, while stalking the person; (v)(A) the stalker's victim is or was a law enforcement officer; judge; juror; attorney; victim advocate; legislator; community corrections' officer; an employee, contract staff person, or volunteer of a correctional agency; court employee, court clerk, or courthouse facilitator; or an employee of the child protective, child welfare, or adult protective services division within the department of social and health services; and (B) the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or (vi) the stalker's victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(6) As used in this section:

(a) "Correctional agency" means a person working for the department of natural resources in a correctional setting or any state, county, or municipally operated agency with the authority to direct the release of a person serving a sentence or term of confinement and includes but is not limited to the department of corrections, the indeterminate sentence review board, and the department of social and health services.

(b) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

(c) "Harasses" means unlawful harassment as defined in RCW 10.14.020.

(d) "Protective order" means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(e) "Repeatedly" means on two or more separate occasions.

Sec. 30. RCW 10.14.070 and 2005 c 144 s 1 are each amended to read as follows:

Upon receipt of the petition alleging a prima facie case of harassment, other than a petition alleging a sex offense as defined in chapter 9A.44 RCW or a petition for a stalking protection order under chapter 7.— RCW (the new chapter created in section 33 of this act), the court shall order a hearing which shall be held not later than fourteen days from the date of the order. If the petition alleges a sex offense as defined in chapter 9A.44 RCW, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. Except as provided in RCW 10.14.085, personal service shall be made upon the respondent not less than five court days before the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by RCW 10.14.085. If the court permits service by publication, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 10.14.080 and 10.14.085.

Sec. 31. RCW 26.50.110 and 2009 c 439 s 3 and 2009 c 288 s 3 are each reenacted and amended to read as follows:

(1)(a) Whenever an order is granted under this chapter, chapter 7.— (the new chapter created in section 33 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of any of the following provisions of the order is a gross misdemeanor, except as provided in subsections (4) and (5) of this section:

(i) The restraint provisions prohibiting acts or threats of violence against, or stalking of, a protected party, or restraint provisions prohibiting contact with a protected party;

(ii) A provision excluding the person from a residence, workplace, school, or day care;

(iii) A provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location;

(iv) A provision prohibiting interfering with the protected party's efforts to remove a pet owned, possessed, leased, kept, or held by the petitioner, respondent, or a minor child residing with either the petitioner or the respondent; or

(v) A provision of a foreign protection order specifically indicating that a violation will be a crime.

(b) Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.— (the new chapter created in section 33 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.— (the new chapter created in section 33 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.— (the new chapter created in section 33 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a

class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.— (the new chapter created in section 33 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.— (the new chapter created in section 33 of this act), 7.90, 9A.46, 9.94A, 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

Sec. 32. RCW 10.31.100 and 2010 c 274 s 201 are each amended to read as follows:

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

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

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

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.— (the new chapter created in section 33 of this act), 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under

RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Sec. 33. Sections 1 through 19 and 22 through 24 of this act constitute a new chapter in Title 7 RCW.

Passed by the House April 18, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor April 27, 2013.

Filed in Office of Secretary of State April 28, 2013.

CHAPTER 85

[Substitute House Bill 1397]

K-12 EDUCATION—SEXUAL HEALTH EDUCATION—SEXUAL OFFENSES

AN ACT Relating to adding a requirement to sexual health education to include legal elements of and consequences of conviction for sexual offenses where a minor is the victim; and amending RCW 28A.300.145.

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

Sec. 1. RCW 28A.300.145 and 2006 c 135 s 2 are each amended to read as follows:

(1) The Washington coalition of sexual assault programs, in consultation with the Washington association of sheriffs and police chiefs, the Washington association of prosecuting attorneys, and the office of the superintendent of public instruction, shall develop educational materials to be made available throughout the state to inform parents, students, school districts, and other interested community members about:

~~((1))~~ (a) The laws related to sex offenses, including the legal elements of sexual offenses under chapter 9A.44 RCW where a minor is a victim, the consequences upon conviction, and sex offender registration, community notification~~((1))~~, and the classification of sex offenders based on an assessment of the risk of reoffending;

~~((2))~~ (b) How to recognize behaviors characteristic of sex offenses and sex offenders;

~~((3))~~ (c) How to prevent victimization, particularly that of young children;

~~((4))~~ (d) How to take advantage of community resources for victims of sexual assault; and

~~((5))~~ (e) Other information as deemed appropriate.

(2) By September 1, 2014, and biennially thereafter, the Washington coalition of sexual assault programs, in consultation with the Washington association of sheriffs and police chiefs, the Washington association of prosecuting attorneys, and the office of the superintendent of public instruction, shall review and update the educational materials developed under subsection (1) of this section to assure that they remain current and accurate, and are age-appropriate for a variety of ages.

(3) Every public school that offers sexual health education must assure that sexual health education complies with existing requirements in the January 2005 guidelines for sexual health information and disease prevention developed by the department of health and the superintendent of public instruction. Specifically, sexual health education must attempt to achieve the objective "take responsibility for and understand the consequences of their own behavior" and the objective "avoid exploitive or manipulative relationships." To do this, sexual health education programs should include age-appropriate information about the legal elements of sexual offenses under chapter 9A.44 RCW where a minor is a victim and the consequences upon conviction, as well as the other information required to be included in informational materials prepared pursuant to subsection (1) of this section. Public schools that offer sexual health education are encouraged to incorporate the materials developed under subsection (1) of this section into the curriculum.

Passed by the House March 4, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 86

[House Bill 1003]

HEALTH PROFESSIONS LICENSING—CHILD ABUSE OR NEGLECT—
FINANCIAL EXPLOITATION OF VULNERABLE ADULT

AN ACT Relating to disciplinary actions against the health professions license of the subject of a department of social and health services' finding; amending RCW 18.130.050; adding a new section to chapter 18.130 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.130 RCW to read as follows:

Any individual who applies for a license or temporary practice permit or holds a license or temporary practice permit and has a final finding issued by the department of social and health services of abuse or neglect of a minor or abuse, abandonment, neglect, or financial exploitation of a vulnerable adult is prohibited from practicing a health care profession in this state until proceedings of the appropriate disciplining authority have been completed under RCW 18.130.050.

Sec. 2. RCW 18.130.050 and 2008 c 134 s 3 are each amended to read as follows:

Except as provided in RCW 18.130.062, the disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter;

(3) To hold hearings as provided in this chapter;

(4) To issue subpoenas and administer oaths in connection with any investigation, consideration of an application for license, hearing, or proceeding held under this chapter;

(5) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(6) To compel attendance of witnesses at hearings;

(7) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews and to issue citations and assess fines for failure to produce documents, records, or other items in accordance with RCW 18.130.230;

(8) To take emergency action ordering summary suspension of a license, or restriction or limitation of the license holder's practice pending proceedings by the disciplining authority. Within fourteen days of a request by the affected license holder, the disciplining authority must provide a show cause hearing in accordance with the requirements of RCW 18.130.135. In addition to the authority in this subsection, a disciplining authority shall:

(a) Consistent with RCW 18.130.370, (~~a disciplining authority shall~~) issue a summary suspension of the license or temporary practice permit of a license holder prohibited from practicing a health care profession in another state, federal, or foreign jurisdiction because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this

chapter or any of the chapters specified in RCW 18.130.040. The summary suspension remains in effect until proceedings by the Washington disciplining authority have been completed;

(b) Consistent with section 1 of this act, issue a summary suspension of the license or temporary practice permit if, under RCW 74.39A.051, the license holder is prohibited from employment in the care of vulnerable adults based upon a department of social and health services' final finding of abuse or neglect of a minor or abuse, abandonment, neglect, or financial exploitation of a vulnerable adult. The summary suspension remains in effect until proceedings by the disciplining authority have been completed;

(9) To conduct show cause hearings in accordance with RCW 18.130.062 or 18.130.135 to review an action taken by the disciplining authority to suspend a license or restrict or limit a license holder's practice pending proceedings by the disciplining authority;

(10) To use a presiding officer as authorized in RCW 18.130.095(3) or the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. The disciplining authority shall make the final decision regarding disposition of the license unless the disciplining authority elects to delegate in writing the final decision to the presiding officer. Disciplining authorities identified in RCW 18.130.040(2)(b) may not delegate the final decision regarding disposition of the license or imposition of sanctions to a presiding officer in any case pertaining to standards of practice or where clinical expertise is necessary;

(11) To use individual members of the boards to direct investigations and to authorize the issuance of a citation under subsection (7) of this section. However, the member of the board shall not subsequently participate in the hearing of the case;

(12) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(13) To contract with license holders or other persons or organizations to provide services necessary for the monitoring and supervision of license holders who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(14) To adopt standards of professional conduct or practice;

(15) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter. After January 1, 2009, all sanctions must be issued in accordance with RCW 18.130.390;

(16) To restrict or place conditions on the practice of new licensees in order to protect the public and promote the safety of and confidence in the health care system;

(17) To designate individuals authorized to sign subpoenas and statements of charges;

(18) To establish panels consisting of three or more members of the board to perform any duty or authority within the board's jurisdiction under this chapter;

(19) To review and audit the records of licensed health facilities' or services' quality assurance committee decisions in which a license holder's practice

privilege or employment is terminated or restricted. Each health facility or service shall produce and make accessible to the disciplining authority the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to discovery or introduction into evidence in any civil action pursuant to RCW 70.41.200(3).

NEW SECTION. Sec. 3. This act takes effect January 1, 2014.

Passed by the House March 5, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 87

[House Bill 1330]

DENTISTRY—DENTAL ASSISTANTS AND HYGIENISTS—SERVICES

AN ACT Relating to allowing dental hygienists and dental assistants to provide certain services under the supervision of a dentist; amending RCW 18.29.050, 18.29.056, and 18.260.040; and adding a new section to chapter 18.29 RCW.

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

Sec. 1. RCW 18.29.050 and 2003 c 257 s 1 are each amended to read as follows:

Any person licensed as a dental hygienist in this state may remove deposits and stains from the surfaces of the teeth, may apply topical preventive or prophylactic agents, may polish and smooth restorations, may perform root planing and soft-tissue curettage, and may perform other dental operations and services delegated to them by a licensed dentist. Any person licensed as a dental hygienist in this state may apply topical anesthetic agents under the general supervision, as defined in RCW 18.260.010, of a dentist: PROVIDED HOWEVER, That licensed dental hygienists shall in no event perform the following dental operations or services:

- (1) Any surgical removal of tissue of the oral cavity;
- (2) Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician, except that a hygienist may place antimicrobials pursuant to the order of a licensed dentist and under the dentist's required supervision;
- (3) Any diagnosis for treatment or treatment planning; or
- (4) The taking of any impression of the teeth or jaw, or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis.

Such licensed dental hygienists may perform dental operations and services only under the supervision of a licensed dentist, and under such supervision may be employed by hospitals, boards of education of public or private schools, county boards, boards of health, or public or charitable institutions, or in dental offices.

Sec. 2. RCW 18.29.056 and 2009 c 321 s 1 are each amended to read as follows:

- (1)(a) Subject to RCW 18.29.230 and (e) of this subsection, dental hygienists licensed under this chapter with two years' practical clinical

experience with a licensed dentist within the preceding five years may be employed, retained, or contracted by health care facilities and senior centers to perform authorized dental hygiene operations and services without dental supervision.

(b) Subject to RCW 18.29.230 and (e) of this subsection, dental hygienists licensed under this chapter with two years' practical clinical experience with a licensed dentist within the preceding five years may perform authorized dental hygiene operations and services without dental supervision under a lease agreement with a health care facility or senior center.

(c) Dental hygienists performing operations and services under (a) or (b) of this subsection are limited to removal of deposits and stains from the surfaces of the teeth, application of topical preventive or prophylactic agents, application of topical anesthetic agents, polishing and smoothing restorations, and performance of root planing and soft-tissue curettage, but shall not perform injections of anesthetic agents, administration of nitrous oxide, or diagnosis for dental treatment.

(d) The performance of dental hygiene operations and services in health care facilities shall be limited to patients, students, and residents of the facilities.

(e) A dental hygienist employed, retained, or contracted to perform services under this section or otherwise performing services under a lease agreement under this section in a senior center must, before providing services:

(i) Enter into a written practice arrangement plan, approved by the department, with a dentist licensed in this state, under which the dentist will provide off-site supervision of the dental services provided. This agreement does not create an obligation for the dentist to accept referrals of patients receiving services under the program;

(ii) Collect data on the patients treated by dental hygienists under the program, including age, treatments rendered, insurance coverage, if any, and patient referral to dentists. This data must be submitted to the department of health at the end of each annual quarter, during the period of time between October 1, 2007, and October 1, 2013; and

(iii) Obtain information from the patient's primary health care provider about any health conditions of the patient that would be relevant to the provision of preventive dental care. The information may be obtained by the dental hygienist's direct contact with the provider or through a written document from the provider that the patient presents to the dental hygienist.

(f) For dental planning and dental treatment, dental hygienists shall refer patients to licensed dentists.

(2) For the purposes of this section:

(a) "Health care facilities" are limited to hospitals; nursing homes; home health agencies; group homes serving the elderly, individuals with disabilities, and juveniles; state-operated institutions under the jurisdiction of the department of social and health services or the department of corrections; and federal, state, and local public health facilities, state or federally funded community and migrant health centers, and tribal clinics.

(b) "Senior center" means a multipurpose community facility operated and maintained by a nonprofit organization or local government for the organization and provision of a combination of some of the following: Health, social,

nutritional, educational services, and recreational activities for persons sixty years of age or older.

NEW SECTION. Sec. 3. A new section is added to chapter 18.29 RCW to read as follows:

(1)(a) Any person licensed in this state as a dental hygienist with two years of practical clinical experience within the preceding five years may perform delegated acts specified in (b) of this subsection on a homebound patient under the general supervision of a dentist licensed under chapter 18.32 RCW if the patient has first been examined by the supervising dentist within a time frame deemed appropriate by the supervising dentist.

(b) The acts that may be performed under (a) of this subsection are limited to the acts, specified in rule by the dental quality assurance commission, that a dental hygienist is authorized to perform under the general supervision of a dentist.

(2) Prior to performing acts under this section, the dental hygienist shall:

(a) Obtain information from the patient's primary health care provider about any health conditions of the patient that would be relevant to the provision of preventive dental care. The dental hygienist shall review and discuss any changes in health condition with the supervising dentist prior to treatment;

(b) Discuss appropriateness of care with the supervising dentist; and

(c) Obtain written consent from the supervising dentist.

(3) For purposes of this section:

(a) "General supervision" has the same meaning as in RCW 18.260.010; and

(b) "Homebound patient" means a patient incapable of travel due to age or disability.

Sec. 4. RCW 18.260.040 and 2007 c 269 s 5 are each amended to read as follows:

(1)(a) The commission shall adopt rules relating to the scope of dental assisting services related to patient care and laboratory duties that may be performed by dental assistants.

(b) In addition to the services and duties authorized by the rules adopted under (a) of this subsection, a dental assistant may apply topical anesthetic agents.

(c) All dental services performed by dental assistants under (a) or (b) of this subsection must be performed under the close supervision of a supervising dentist as the dentist may allow.

(2) In addition to any other limitations established by the commission, dental assistants may not perform the following procedures:

(a) Any scaling procedure;

(b) Any oral prophylaxis, except coronal polishing;

(c) Administration of any general or local anesthetic, including intravenous sedation;

(d) Any removal of or addition to the hard or soft tissue of the oral cavity;

(e) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth, jaw, or adjacent structures; and

(f) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis.

(3) A dentist may not assign a dental assistant to perform duties until the dental assistant has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

Passed by the House March 5, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 88

[House Bill 1006]

HORSE RACING COMMISSION—ACCOUNTS

AN ACT Relating to removing the requirement that earnings from the Washington horse racing commission operating account be credited to the Washington horse racing commission class C purse fund account; amending RCW 67.16.280; and reenacting and amending RCW 43.79A.040.

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

Sec. 1. RCW 43.79A.040 and 2012 c 198 s 8, 2012 c 196 s 6, 2012 c 187 s 13, and 2012 c 114 s 3 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the Washington advanced college tuition payment program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the

toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account ~~((earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account))~~, the life sciences discovery fund, the Washington state heritage center account, ~~((and))~~ the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, ~~((and))~~ the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 2. RCW 67.16.280 and 2011 c 12 s 2 are each amended to read as follows:

(1) The Washington horse racing commission operating account is created in the custody of the state treasurer. All receipts collected by the commission under RCW 67.16.105(2) must be deposited into the account. The commission has the authority to receive such gifts, grants, and endowments from public or private sources as may be made from time to time in trust or otherwise for the use and purpose of regulating or supporting nonprofit race meets as set forth in RCW 67.16.130 and 67.16.105(1); such gifts, grants, and endowments must also

be deposited into the account and expended according to the terms of such gift, grant, or endowment. Moneys in the account may be spent only after appropriation. Except as provided in subsection (2) of this section, expenditures from the account may be used only for operating expenses of the commission. ~~((Investment earnings from the account will be retained in the Washington horse racing commission operating account, pursuant to RCW 43.79A.040.))~~

(2) In order to provide funding in support of the legislative findings in RCW 67.16.101 (1) through (3), and to provide additional necessary support to the nonprofit race meets beyond the funding provided by RCW 67.16.101(4) and 67.16.102(2), the commission is authorized to spend up to three hundred thousand dollars per fiscal year from its operating account for the purpose of developing the equine industry, maintaining and upgrading racing facilities, and assisting equine health research. When determining how to allocate the funds available for these purposes, the commission must give first consideration to uses that regulate and assist the nonprofit race meets and equine health research. These expenditures may occur only when sufficient funds remain for the continued operations of the horse racing commission.

Passed by the House February 18, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 89

[Substitute House Bill 1009]

LIQUOR—SELF-CHECKOUT MACHINES

AN ACT Relating to liquor self-checkout machines; and adding a new section to chapter 66.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 66.24 RCW to read as follows:

Retailers may sell liquor as defined in RCW 66.04.010(25) through self-checkout registers if that register is programmed to halt that transaction during the purchase of liquor until an employee of the retailer intervenes and verifies the age of the purchaser by reviewing established forms of acceptable identification. Once age is successfully verified, the employee can release the transaction for payment. If the purchaser cannot provide acceptable forms of identification to verify age, the employee must refuse the purchase and void the transaction.

Passed by the House February 25, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 90

[Substitute House Bill 1012]

APPRAISAL MANAGEMENT COMPANIES—SURETY BOND

AN ACT Relating to maintenance of a surety bond for appraisal management companies; and amending RCW 18.310.040.

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

Sec. 1. RCW 18.310.040 and 2010 c 179 s 4 are each amended to read as follows:

(1) Applications for licensure must be made to the department on forms approved by the director. A license is valid for two years and must be renewed on or before the expiration date. Applications for original and renewal licenses must include a statement confirming that the company must comply with applicable rules and that the company understands the penalties for misconduct.

(2) The appropriate fees must accompany all applications for original licensure and renewal.

(3)(a) Each applicant shall file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as the surety may not exceed in the aggregate the penal sum of the bond. The penal sum of the bond must be a minimum of ~~((twenty five))~~ one hundred thousand dollars. The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter.

(b) If the director determines that surety bonds are not readily available to appraisal management companies, the director may accept a cash bond or other security in lieu of the surety bond required by this section. The security accepted in lieu of a surety bond must be in an amount equal to the penal sum of the required bond. All obligations and remedies relating to surety bonds apply to deposits and other security filed in lieu of surety bonds.

Passed by the House March 4, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 91

[Substitute House Bill 1021]

CHILD CUSTODY CASES—ABDUCTION BY PARENT—INFORMATION

AN ACT Relating to educating parents of the harmful effects of parental abduction; and adding a new section to chapter 26.09 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 26.09 RCW to read as follows:

In any proceeding under this chapter where the custody or care of a minor child is at issue or in dispute, information on the harmful effects of parental abduction shall be included in any packet of information or materials provided to the parties, or in any parenting class or seminar that is offered to or required of the parties. The information shall include the following:

**PAMPHLET REGARDING THE HARMFUL EFFECTS OF
PARENTAL ABDUCTION IN CHILD CUSTODY CASES**

Child custody disputes can sometimes lead one parent or the other to abduct one or more of their children. Each year approximately two hundred fifty thousand children in the United States are abducted by a noncustodial or custodial parent in violation of the law.

Child abduction, including abduction by a parent, commonly leads to growing fear, confusion, and general mistrust on the part of the child. Parental abduction means a loss of the parent left behind, extended family, friends, pets, community, and familiar surroundings that provide children with a sense of security and well-being. Such losses may be very traumatic for a child leading to long-term, adverse effects as the child grows.

Given the need to maintain secrecy by the abducting parent, children who are parentally abducted often:

- (1) Fail to receive an adequate education;
- (2) Fail to receive adequate medical care;
- (3) Live in substandard housing;
- (4) Are told the parent left behind is a bad person, does not want the child, or is deceased;
- (5) Are instructed to lie to remain anonymous and hidden;
- (6) Are fearful of leaving their residence;
- (7) Are fearful of encountering law enforcement and other security personnel.

If and when returned, abducted children often live in apprehension of being abducted again. Just as abused children may identify with and seek the approval of their abuser, abducted children may do the same with their abductor. Once returned the child may feel anger and resentment at the parent who was left behind because the child now does not have visitation or communication with the abducting parent.

The returned child may suffer loyalty conflicts, emotional detachment, and feelings of betrayal by providing information about the abducting parent who broke the law. An inability to trust adults in general can hinder the child's ability to form lasting relationships even long into adulthood.

If the child is very young when abducted and is returned as an older child, the child may suffer serious negative emotional effects because the child feels as if he or she is returned to a stranger and therefore the return to the parent who was originally left behind seems like an abduction itself.

Parents need to understand that even though their relationship with each other may be strained or even toxic, their children often have a strong, loving, trusting relationship with both parents.

A parent who is considering abducting his or her child should know and understand the potential short-term and long-term traumatic impacts that

parental abduction has on a child and consider only those actions that will be lawful and will contribute to the child's best interests.

Passed by the House February 25, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 92

[House Bill 1065]

ARBITRATION—STATUTE OF LIMITATIONS

AN ACT Relating to the applicability of statutes of limitation in arbitration proceedings; and amending RCW 7.04A.090.

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

Sec. 1. RCW 7.04A.090 and 2005 c 433 s 9 are each amended to read as follows:

(1) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by mail certified or registered, return receipt requested and obtained, or by service as authorized for the initiation of a civil action. The notice must describe the nature of the controversy and the remedy sought.

(2) Unless a person interposes an objection as to lack or insufficiency of notice under RCW 7.04A.150(3) not later than the commencement of the arbitration hearing, the person's appearance at the hearing waives any objection to lack of or insufficiency of notice.

(3) A claim sought to be arbitrated is subject to the same limitations of time for the commencement of actions as if the claim had been asserted in a court.

Passed by the House March 4, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 93

[Substitute House Bill 1071]

FISH AND WILDLIFE—SALMONID HATCHERIES—MANAGEMENT

AN ACT Relating to state and private partnerships for managing salmonid hatcheries; amending RCW 77.95.320; creating a new section; and providing an expiration date.

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

Sec. 1. RCW 77.95.320 and 2009 c 340 s 2 are each amended to read as follows:

(1) The department shall establish a program that utilizes department-partner agreements for the resumption or continued operation and management of state-owned salmonid hatcheries (~~(now closed or scheduled for closure during the 2009-2011 biennium)~~) that are located in the Hood Canal basin. To implement the program, the department shall accept and review applications to determine the appropriateness of the partner to manage and operate selected

salmonid hatcheries. The department shall accelerate the application process relating to any hatchery currently in operation to avoid cessation of ongoing salmon production.

(2)(a) To select a partner, the department shall develop and apply criteria identifying the appropriateness of a potential partner. The criteria must seek to ensure that the partner has a long-range business plan, which may include the sale of hatchery surplus salmon, including eggs and carcasses, to ensure the long-range future solvency of the partnership. The business plan may also allow the partner to harvest hatchery chum salmon in a designated area through persons under contract with the partner as provided under a permit from the department or by rule of the commission. All chum salmon harvested must be sold at prices commensurate with the current market and all funds must be utilized by the partner to operate the hatchery.

(b) Partners under this section must be:

(i) Qualified under section 501(c)(3) of the internal revenue code;

(ii) A for-profit private entity; or

(iii) A federally recognized tribe.

(3) The department shall place a higher priority on applications from partners that provide for the maximum resumption or continuation of existing hatchery production in a manner consistent with the mandate contained in RCW 77.04.012 to maintain the economic well-being and stability of the fishing industry.

(4)(a) Agreements entered into with partners under this section must be consistent with existing federally recognized tribal rights, state laws, agency rules, collective bargaining agreements, hatchery management policy involving species listed under the federal endangered species act, or, in the case of a tribal partner, any applicable tribal hatchery management policy or recreational and commercial harvest policy.

(b) Agreements under this section must also require that partners give preference to retaining classified employees whenever possible. In circumstances where it is not possible, partners conducting hatchery operations must maintain staff with comparable qualifications to those identified in the class specifications for the department's fish hatchery personnel.

(5) All partnership agreements entered into under this section must contain a provision that requires the partner to hold harmless the department and the state for any civil liability arising from the partner's participation in the agreement or activities at the subject hatchery or hatcheries.

(6) All partnership agreements entered into under this section must identify any maintenance or improvements to be made to the hatchery facility, and the source of funding for such maintenance or improvements. If funding for the maintenance or improvements is to come from state funds or revenue sources previously received by the department, the work must be performed either by employees in the classified service or in compliance with the contracting procedures set forth in RCW 41.06.142.

NEW SECTION. Sec. 2. (1) The department of fish and wildlife shall prepare and submit a report to the legislature summarizing any actions taken in the implementation of RCW 77.95.320, including the types and number of fish released, lessons learned, and suggestions for future program refinement.

(2) The report required by this section must be submitted consistent with RCW 43.01.036 by October 31, 2016.

(3) This section expires July 31, 2017.

Passed by the House March 6, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 94

[House Bill 1108]

CRIMES—THIRD DEGREE RAPE—INDECENT LIBERTIES

AN ACT Relating to rape in the third degree and indecent liberties; and amending RCW 9A.44.060 and 9A.44.100.

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

Sec. 1. RCW 9A.44.060 and 1999 c 143 s 34 are each amended to read as follows:

(1) A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person(~~(, not married to the perpetrator)~~):

(a) Where the victim did not consent as defined in RCW 9A.44.010(7), to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct, or

(b) Where there is threat of substantial unlawful harm to property rights of the victim.

(2) Rape in the third degree is a class C felony.

Sec. 2. RCW 9A.44.100 and 2007 c 20 s 2 are each amended to read as follows:

(1) A person is guilty of indecent liberties when he or she knowingly causes another person (~~(who is not his or her spouse)~~) to have sexual contact with him or her or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who:

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who:

- (i) Has a significant relationship with the victim; or
- (ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2)(a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.

(b) Indecent liberties by forcible compulsion is a class A felony.

Passed by the House March 11, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 95

[House Bill 1124]

SPIRITS—TAX AND FEE REPORTING

AN ACT Relating to recommendations for streamlining reporting requirements for taxes and fees on spirits; adding a new section to chapter 66.08 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 adoption of Initiative Measure No. 1183 by the voters in 2011 privatized the sale and distribution of spirits in Washington. The legislature also finds that reporting requirements for all liquor taxes and fees are administratively complex and require payment and reporting to multiple state agencies.

NEW SECTION. Sec. 2. A new section is added to chapter 66.08 RCW to read as follows:

By September 30, 2013, and in compliance with RCW 43.01.036, the board and the department of revenue must make recommendations to the legislature that detail the statutory changes necessary to: Streamline the collection of liquor taxes, fees, and reports; and require a singular state agency to be responsible for the collection of this revenue and information.

Passed by the House March 9, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 96

[Substitute House Bill 1141]

WATER POLLUTION CONTROL REVOLVING LOAN ADMINISTRATION CHARGE

AN ACT Relating to establishing a water pollution control revolving loan administration charge; amending RCW 90.50A.010; reenacting and amending RCW 43.84.092 and 43.84.092; adding a new section to chapter 90.50A RCW; providing a contingent effective date; and providing a contingent expiration date.

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

Sec. 1. RCW 90.50A.010 and 1988 c 284 s 2 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Department" means the department of ecology.
- (2) "Eligible cost" means the cost of that portion of a water pollution control facility or activity that can be financed under this chapter.
- (3) "Fund" means the water pollution control revolving fund in the custody of the state treasurer.
- (4) "Water pollution control facility" or "water pollution control facilities" means any facilities or systems owned or operated by a public body for the control, collection, storage, treatment, disposal, or recycling of wastewater, including but not limited to sanitary sewage, storm water, combined sewer overflows, residential, commercial, industrial, and agricultural wastes, which are causing water quality degradation due to concentrations of conventional, nonconventional, or toxic pollutants. Water pollution control facilities include all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to such purpose. Water pollution control facilities also include such facilities, equipment, and collection systems as are necessary to protect federally designated sole source aquifers.
- (5) "Water pollution control activities" means actions taken by a public body for the following purposes: (a) To control nonpoint sources of water pollution; (b) to develop and implement a comprehensive management plan for estuaries; and (c) to maintain or improve water quality through the use of water pollution control facilities or other means.
- (6) "Public body" means the state of Washington or any agency, county, city or town, other political subdivision, municipal corporation or quasi-municipal corporation, and those Indian tribes now or hereafter recognized as such by the federal government.
- (7) "Water pollution" means such contamination, or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life.
- (8) "Nonpoint source water pollution" means pollution that enters any waters of the state from any dispersed water-based or land-use activities, including, but not limited to, atmospheric deposition, surface water runoff from agricultural lands, urban areas, and forest lands, subsurface or underground sources, and discharges from boats or other marine vessels.
- (9) "Federal capitalization grants" means grants from the federal government provided by the water quality act of 1987 (P.L. 100-4).
- (10) "Debt service" means the total of all principal, interest, and administration charges associated with a water pollution control revolving fund loan that must be repaid to the department by the public body.

NEW SECTION. Sec. 2. A new section is added to chapter 90.50A RCW to read as follows:

(1) The water pollution control revolving administration account is created in the state treasury. All receipts from charges authorized in this section must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only in a manner consistent with this section.

(2) The department is authorized to assess administration charges as a portion of the debt service for loans issued under the water pollution control revolving fund created in RCW 90.50A.020. The sole purpose of assessing administration charges is to predictably and adequately fund the department's costs of administering the water pollution control revolving fund loan program, as identified in subsection (5) of this section. The department must assess administration charges on each water pollution control revolving fund loan at the point the loan enters repayment status, after the effective date of this section and rule changes are adopted to implement the administration charge. Loans that are at an interest rate below the established administration charge rate are exempt from the administration charge.

(3) The water pollution control revolving administration account consists of:

(a) Any administration charge levied by the department in conjunction with administration of the water pollution control revolving fund; and

(b) Any other revenues derived from gifts, grants, or bequests pledged to the state for the purpose of administering the water pollution control revolving fund.

(4) The state treasurer may invest and reinvest moneys in the water pollution control revolving administration account in the manner provided by law. All earnings from such investment and reinvestment must be credited to the water pollution control revolving administration account.

(5) Moneys in the water pollution control revolving administration account are to be used for the following water pollution revolving fund loan program costs:

(a) Administration costs associated with conducting application processes, managing contracts, collecting loan repayments, managing the revolving fund, providing technical assistance, and meeting state and federal reporting requirements; and

(b) Information and data system costs associated with loan tracking and fund management.

(6) Each biennium, the department may spend from the water pollution control revolving administration account an amount no greater than four percent of the water pollution control revolving fund new capital appropriation.

(7) For its 2017-2019 biennial operating budget submittal, and every biennium thereafter, the department must compare the projected water pollution control revolving administration account balance and the projected administration charge income with projected program costs, including an adequate working capital reserve as defined by the office of financial management. In its submittal to the office of financial management, the department may:

(a) Find that the projected administration charge income is inadequate to fund the cost of administering the program, and that the rate of the charge must be increased. However, the administration charge may never exceed one percent on the declining principal loan balance;

(b) Find that the projected administration charge income exceeds what is needed to fund the cost of administering the program, and that the rate of the charge must be decreased;

(c) Find that there is an excess balance in the revolving administration account, and that the excess must be transferred to the water pollution control revolving fund to be used for loans; or

(d) Find that there is no need for any rate adjustments or balance transfers.

(8) At the point where the water pollution control revolving administration account adequately covers the program administration costs, the department may no longer use the federal administration allowance. If a federal capitalization grant is awarded after that point, all federal capitalization dollars must be used for making loans.

(9) By December 1, 2018, the department must submit to the appropriate legislative fiscal committees a report on implementation of the administration charge, including information on: The amount of income the administration charge has produced since its inception; the uses and adequacy of the income for administrative costs; any excess balances that have been transferred to the water pollution control revolving fund; and any additional sources that the department is using for program administration.

Sec. 3. RCW 43.84.092 and 2012 c 198 s 2, 2012 c 196 s 7, 2012 c 187 s 14, and 2012 c 83 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the

period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety ~~(account-fund)~~ fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife

account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state economic development commission 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, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, 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 43.84.092 and 2012 c 198 s 2, 2012 c 196 s 7, 2012 c 187 s 14, 2012 c 83 s 4, and 2012 c 36 s 5 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects

to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the Columbia river crossing project account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway

safety ((account (fund))) fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state economic development commission 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,

and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 5. Section 3 of this act expires if the requirements set out in section 7, chapter 36, Laws of 2012 are met.

NEW SECTION. Sec. 6. Section 4 of this act takes effect if the requirements set out in section 7, chapter 36, Laws of 2012 are met.

Passed by the House March 6, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 97

[House Bill 1148]

BUSINESS CORPORATION ACT—DISSENTERS' RIGHTS

AN ACT Relating to dissenters' rights under the Washington business corporation act; amending RCW 23B.13.220 and 23B.13.230; and reenacting and amending RCW 23B.13.020.

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

Sec. 1. RCW 23B.13.020 and 2009 c 189 s 41 and 2009 c 188 s 1404 are each reenacted and amended to read as follows:

(1) A shareholder is entitled to dissent from, and obtain payment of the fair value of the shareholder's shares in the event of, any of the following corporate actions:

(a) A plan of merger, which has become effective, to which the corporation is a party (i) if shareholder approval was required for the merger by RCW 23B.11.030, 23B.11.080, or the articles of incorporation, and the shareholder was entitled to vote on the merger, or (ii) if the corporation was a subsidiary ~~((that has been merged))~~ and the plan of merger provided for the merger of the subsidiary with its parent under RCW 23B.11.040;

(b) A plan of share exchange, which has become effective, to which the corporation is a party as the corporation whose shares have been acquired, if the shareholder was entitled to vote on the plan;

(c) A sale or exchange, which has become effective, of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder was entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net

proceeds of the sale will be distributed to the shareholders within one year after the date of sale;

(d) An amendment of the articles of incorporation, whether or not the shareholder was entitled to vote on the amendment, if the amendment effects a redemption or cancellation of all of the shareholder's shares in exchange for cash or other consideration other than shares of the corporation; ((e))

(e) Any action described in RCW 23B.25.120; or

(f) Any corporate action approved pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(2) A shareholder entitled to dissent and obtain payment for the shareholder's shares under this chapter may not challenge the corporate action creating the shareholder's entitlement unless the action fails to comply with the procedural requirements imposed by this title, RCW 25.10.831 through 25.10.886, the articles of incorporation, or the bylaws, or is fraudulent with respect to the shareholder or the corporation.

(3) The right of a dissenting shareholder to obtain payment of the fair value of the shareholder's shares shall terminate upon the occurrence of any one of the following events:

(a) The proposed corporate action is abandoned or rescinded;

(b) A court having jurisdiction permanently enjoins or sets aside the corporate action; or

(c) The shareholder's demand for payment is withdrawn with the written consent of the corporation.

Sec. 2. RCW 23B.13.220 and 2009 c 189 s 44 are each amended to read as follows:

(1) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is approved at a shareholders' meeting, the corporation shall within ten days after the effective date of the corporate action deliver to all shareholders who satisfied the requirements of RCW 23B.13.210(1) a notice in compliance with subsection ~~((3))~~ (5) of this section.

(2) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is approved without a vote of shareholders in accordance with RCW 23B.07.040, the notice delivered pursuant to RCW 23B.07.040(3)(b) to shareholders who satisfied the requirements of RCW 23B.13.210(2) shall comply with subsection ~~((3))~~ (5) of this section.

(3) In the case of proposed corporate action creating dissenters' rights under RCW 23B.13.020(1)(a)(ii), the corporation shall within ten days after the effective date of the corporate action deliver to all shareholders of the subsidiary other than the parent a notice in compliance with subsection (5) of this section.

(4) In the case of proposed corporate action creating dissenters' rights under RCW 23B.13.020(1)(d) that, pursuant to RCW 23B.10.020(4)(b), is not required to be approved by the shareholders of the corporation, the corporation shall within ten days after the effective date of the corporate action deliver to all shareholders entitled to dissent under RCW 23B.13.020(1)(d) a notice in compliance with subsection (5) of this section.

(5) Any notice under subsection (1) ~~((e)), (2), (3), or (4)~~ of this section must:

(a) State where the payment demand must be sent and where and when certificates for certificated shares must be deposited;

(b) Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether or not the person acquired beneficial ownership of the shares before that date;

(d) Set a date by which the corporation must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice in subsection (1) ~~((~~6~~))~~, (2), (3), or (4) of this section is delivered; and

(e) Be accompanied by a copy of this chapter.

Sec. 3. RCW 23B.13.230 and 2002 c 297 s 39 are each amended to read as follows:

(1) A shareholder sent a notice described in RCW 23B.13.220 must demand payment, certify whether the shareholder acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to RCW 23B.13.220~~((~~2~~))~~ (5)(c), and deposit the shareholder's certificates, all in accordance with the terms of the notice.

(2) The shareholder who demands payment and deposits the shareholder's share certificates under subsection (1) of this section retains all other rights of a shareholder until the proposed corporate action is effected.

(3) A shareholder who does not demand payment or deposit the shareholder's share certificates where required, each by the date set in the notice, is not entitled to payment for the shareholder's shares under this chapter.

Passed by the House February 27, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 98

[House Bill 1149]

CRAFT DISTILLERIES—SPIRIT SALES

AN ACT Relating to increasing the volume of spirits that may be sold per day to a customer of a craft distillery; and amending RCW 66.24.145.

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

Sec. 1. RCW 66.24.145 and 2012 c 2 s 205 (Initiative Measure No. 1183) are each amended to read as follows:

(1) Any craft distillery may sell spirits of its own production for consumption off the premises, up to ~~((two))~~ three liters per person per day. A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) Any craft distillery licensed under this section may provide, free of charge, one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit.

(4) The board must adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

(5) Distilling is an agricultural practice.

Passed by the House March 4, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 99

[House Bill 1154]

ENERGY INDEPENDENCE ACT—NONPOWER ATTRIBUTES

AN ACT Relating to modifying the definition of nonpower attributes in the energy independence act; and reenacting and amending RCW 19.285.030.

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

Sec. 1. RCW 19.285.030 and 2012 c 22 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) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3)(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.

(4) "Commission" means the Washington state utilities and transportation commission.

(5) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(6) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(7) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(8) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(9) "Department" means the department of commerce or its successor.

(10) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(11) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services;

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments; and

(c) Qualified biomass energy.

(12) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(13) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(14)(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 from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible 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.

(15) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(16) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(17) "Qualified biomass energy" means electricity produced from a biomass energy facility that: (a) Commenced operation before March 31, 1999; (b) contributes to the qualifying utility's load; and (c) is owned either by: (i) A qualifying utility; or (ii) an industrial facility that is directly interconnected with electricity facilities that are owned by a qualifying utility and capable of carrying electricity at transmission voltage.

(18) "Qualifying utility" means an electric utility, as the term "electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(19) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by freshwater. 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.

(20) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; or (i) biomass energy.

(21) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(22) "Year" means the twelve-month period commencing January 1st and ending December 31st.

Passed by the House March 6, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 100

[Substitute House Bill 1180]

VOLUNTEER FIREFIGHTERS AND RESERVE OFFICERS—DEATH BENEFITS

AN ACT Relating to death benefits for volunteer firefighters and reserve officers; and amending RCW 41.24.160.

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

Sec. 1. RCW 41.24.160 and 2001 c 134 s 2 are each amended to read as follows:

(1)(a) Whenever a participant dies as the result of injuries received, or sickness contracted in consequence or as the result of the performance of his or her duties, the board of trustees shall order and direct the payment from the principal fund of (i) the sum of ~~((one hundred fifty-two))~~ two hundred fourteen thousand dollars to his widow or her widower, or if there is no widow or widower, then to his or her dependent child or children, or if there is no dependent child or children, then to his or her dependent parents or either of them, or if there are no dependent parents or parent, then the death benefit shall be paid to the member's estate, and (ii)(A) the sum of one thousand two hundred seventy-five dollars per month to his widow or her widower ~~((during his or her life together with the additional monthly sum of one hundred ten dollars for each child of the member, unemancipated or under eighteen years of age, dependent~~

~~upon the member for support at the time of his or her death, (B) to a maximum total of two thousand five hundred fifty dollars per month), with (B) an additional amount of five hundred dollars per month paid to the legal guardian or surviving parent of each birth or legally adopted child, unemancipated or under eighteen years of age, and dependent upon the member for support at the time of his or her death.~~

(b) Beginning on July 1, 2001, and each July 1st thereafter, the compensation amounts specified in (a)(ii) (A) and (B) of this subsection shall be readjusted to reflect the percentage change in the consumer price index, calculated as follows: The index for the calendar year preceding the year in which the July calculation is made, to be known as "calendar year A," is divided by the index for the calendar year preceding calendar year A, and the resulting ratio is multiplied by the compensation amount in effect on June 30th immediately preceding the July 1st on which the respective calculation is made. For the purposes of this subsection, "index" means the same as the definition in RCW 2.12.037(1).

~~(2) (If the widow or widower does not have legal custody of one or more dependent children of the deceased participant or if, after the death of the participant, legal custody of such child or children passes from the widow or widower to another person, any payment on account of such child or children not in the legal custody of the widow or widower shall be made to the person or persons having legal custody of such child or children. Such payments on account of such child or children shall be subtracted from the amount to which such widow or widower would have been entitled had such widow or widower had legal custody of all the children and the widow or widower shall receive the remainder after such payments on account of such child or children have been subtracted. If there is no widow or widower, or the widow or widower dies while there are children, unemancipated or under eighteen years of age, then the amount of one thousand two hundred seventy-five dollars per month shall be paid for the youngest or only child together with an additional one hundred ten dollars per month for each additional of such children to a maximum of two thousand five hundred fifty dollars per month until they become emancipated or reach the age of eighteen years; and if there are no widow or widower, child, or children entitled thereto, then to his or her parents or either of them the sum of one thousand two hundred seventy-five dollars per month for life, if it is proved to the satisfaction of the board that the parents, or either of them, were dependent on the deceased for their support at the time of his or her death. In any instance in subsections (1) and (2) of this section, if the widow or widower, child or children, or the parents, or either of them, marries while receiving such pension the person so marrying shall thereafter receive no further pension from the fund.~~

~~(3))~~ In the case provided for in this section, the monthly payment provided may be converted in whole or in part into a lump sum payment, not in any case to exceed ~~((twelve))~~ twenty-five thousand dollars, equal or proportionate, as the case may be, to the actuarial equivalent of the monthly payment in which event the monthly payments shall cease in whole or in part accordingly or proportionately. Such conversion may be made either upon written application to the state board and shall rest in the discretion of the state board; or the state board is authorized to make, and authority is given it to make, on its own motion, lump sum payments, equal or proportionate, as the case may be, to the value of

the annuity then remaining in full satisfaction of claims due to dependents. Within the rule under this subsection the amount and value of the lump sum payment may be agreed upon between the applicant and the state board.

Passed by the House March 13, 2013.
Passed by the Senate April 16, 2013.
Approved by the Governor May 1, 2013.
Filed in Office of Secretary of State May 1, 2013.

CHAPTER 101

[Substitute House Bill 1192]

FISHING LICENSES—VETERANS WITH DISABILITIES

AN ACT Relating to license fees under Title 77 RCW for veterans with disabilities; amending RCW 77.32.480; and providing an effective date.

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

Sec. 1. RCW 77.32.480 and 2007 c 254 s 3 are each amended to read as follows:

(1) Upon written application, a combination fishing license shall be issued at the reduced rate of five dollars(,-) and all hunting licenses shall(-) be issued at the reduced rate of a youth hunting license fee for the following individuals:

((+)) (a) A resident sixty-five years old or older who is an honorably discharged veteran of the United States armed forces having a service-connected disability;

((2)) (b) A resident who is an honorably discharged veteran of the United States armed forces with a thirty percent or more service-connected disability;

((3)) (c) A resident with a disability who permanently uses a wheelchair;

((4)) (d) A resident who is blind or visually impaired; and

((5)) (e) A resident with a developmental disability as defined in RCW 71A.10.020 with documentation of the disability certified by a physician licensed to practice in this state.

(2) Upon department verification of eligibility, a nonstate resident veteran with a disability who otherwise satisfies the criteria of subsection (1)(a) and (b) of this section must be issued a combination fishing license or any hunting license at the same cost charged to a nondisabled Washington resident for the same license.

NEW SECTION. Sec. 2. This act takes effect February 1, 2014.

Passed by the House March 13, 2013.
Passed by the Senate April 15, 2013.
Approved by the Governor May 1, 2013.
Filed in Office of Secretary of State May 1, 2013.

CHAPTER 102

[House Bill 1218]

DEPARTMENT OF FISH AND WILDLIFE—LICENSE SUSPENSIONS

AN ACT Relating to department of fish and wildlife license suspensions; and amending RCW 77.15.670.

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

Sec. 1. RCW 77.15.670 and 1999 c 258 s 11 are each amended to read as follows:

(1) A person is guilty of violating a suspension of department privileges in the second degree if the person engages in any activity that is licensed by the department and the person's privileges to engage in that activity were revoked or suspended by any court or the department.

(2) A person is guilty of violating a suspension of department privileges in the first degree if the person commits the act described by subsection (1) of this section and:

(a) The suspension of privileges that was violated was a permanent suspension;

(b) The person takes or possesses more than two hundred fifty dollars' worth of unlawfully taken food fish, wildlife, game fish, seaweed, or shellfish; or

(c) The violation involves the hunting, taking, or possession of fish or wildlife classified as endangered or threatened or big game.

(3)(a) Violating a suspension of department privileges in the second degree is a gross misdemeanor. ~~((Upon conviction, the department shall order))~~ Except for violations of child support-based suspensions, which are covered in (c) of this subsection, a conviction under this subsection requires the department to order a permanent suspension of the person's privileges to engage in ((such)) the hunting or fishing activities that he or she was engaged in when he or she violated a suspension of department privileges in the second degree.

(b) Violating a suspension of department privileges in the first degree is a class C felony. ~~((Upon conviction, the department shall order))~~ Except for violations of child support-based suspensions, which are covered in (c) of this subsection, a conviction under this subsection requires the department to order a permanent suspension of all of the person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish.

(c) Suspension periods for violations of child support-based suspensions are as follows:

(i) If the suspension that the person violated in the second degree was based on noncompliance with child support and was ordered under RCW 74.20A.322 or 77.32.014, then the department must order a suspension of all of the person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish for a period of two years. This suspension is in addition to any suspension required by the statute for the underlying fish or wildlife violation.

(ii) If the suspension that the person violated in the first degree was based on noncompliance with child support and was ordered under RCW 74.20A.322 or 77.32.014, then the department must order a suspension of all of the person's privileges to hunt, fish, trap, or take wildlife, food fish, game fish, or shellfish for a period of four years. This suspension is in addition to any suspension required by the statute for the underlying fish or wildlife violation.

(iii) Suspensions pursuant to (c)(i) and (ii) of this subsection do not affect any underlying hunting and fishing privilege suspensions based on noncompliance with child support and ordered under RCW 74.20A.322 or 77.32.014. If a person who is suspended pursuant to (c)(i) and (ii) of this subsection completes the period of suspension ordered under this section but is still suspended for child support noncompliance, the person is prohibited from hunting, fishing, or engaging in any activity regulated by the department until he

or she obtains a release from the department of social and health services and provides a copy of the release to the department.

(4) As used in this section, hunting includes trapping with a trapping license.

Passed by the House March 6, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 103

[Engrossed Substitute House Bill 1247]

VOCATIONAL EDUCATION—JOB SKILLS PROGRAM

AN ACT Relating to the job skills program; and amending RCW 28C.04.420.

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

Sec. 1. RCW 28C.04.420 and 2009 c 554 s 2 are each amended to read as follows:

The college board may, subject to appropriation from the legislature or from funds made available from any other public or private source and pursuant to rules adopted by the college board, and with the advice of the workforce training customer advisory committee established in RCW 28C.04.390, provide job skills grants to educational institutions. The job skills grants shall be used exclusively for programs which are consistent with the job skills program. The college board shall work in collaboration with the workforce training customer advisory committee established in RCW 28C.04.390 to assure that:

(1) The program is within the scope of the job skills program under this chapter and may reasonably be expected to succeed and thereby increase employment within the state;

(2) Provision has been made to use any available alternative funding from local, state, and federal sources;

(3) The job skills grant will only be used to cover the costs associated with the program;

(4) The program will not unnecessarily duplicate existing programs and could not be provided by another educational institution more effectively or efficiently;

(5) The program involves an area of skills training and education for which there is a demonstrable need;

(6) The applicant has made provisions for the use of existing federal and state resources for student financial assistance;

(7) The job skills grant is essential to the success of the program as the resources of the applicant are inadequate to attract the technical assistance and financial support necessary for the program from business and industry;

(8) The program represents a collaborative partnership between business, industry, labor, educational institutions, and other partners, as appropriate;

(9)(a) The commitment of financial support from businesses ~~(and industry)~~ with an annual gross business income of five hundred thousand dollars or more shall be equal to or greater than the amount of the requested job skills grant;

(b) The commitment of financial support from businesses with an annual gross business income of less than five hundred thousand dollars shall be at least equal to the trainees' salaries and benefits while in training;

(c) The annual gross business income shall be the income reported to the department of revenue for the previous fiscal year;

(10) The job skills program gives priority to applications:

(a) ~~Proposing training that ((leads to transferable skills that are interchangeable among different jobs, employers, or workplaces))~~ provides college credit or leads to a recognized industry credential;

(b) From firms in strategic industry clusters as identified by the state or local areas;

(c) Proposing coordination with other cluster-based programs or initiatives including, but not limited to, industry skill panels, centers of excellence, innovation partnership zones, state-supported cluster growth grants, and local cluster-based economic development initiatives;

(d) ~~((Proposing industry based credentialing))~~ From consortia of colleges or consortia of employers; and

(e) Proposing increased capacity for educational institutions that can be made available to industry and students beyond the grant recipients;

(11) Binding commitments have been made to the college board by the applicant for adequate reporting of information and data regarding the program to the college board, particularly information concerning the recruitment and employment of trainees and students, and including a requirement for an annual or other periodic audit of the books of the applicant directly related to the program, and for such control on the part of the college board as it considers prudent over the management of the program, so as to protect the use of public funds, including, in the discretion of the ~~((commission))~~ college board and without limitation, right of access to financial and other records of the applicant directly related to the programs; and

(12) A provision has been made by the applicant to work, in cooperation with the employment security department, to identify and screen potential trainees, and that provision has been made by the applicant for the participation as trainees of low-income persons including temporary assistance for needy families recipients, dislocated workers, and persons from minority and economically disadvantaged groups to participate in the program.

Beginning ~~((October 1, 1999))~~ January 1, 2014, and every ~~((two))~~ year(s) thereafter, the college board shall provide the legislature and the governor with a report describing the activities and outcomes of the state job skills program.

Passed by the House March 9, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 104

[Substitute House Bill 1256]

FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD—PROJECT SELECTION

AN ACT Relating to project selection by the freight mobility strategic investment board; and amending RCW 47.06A.020, 47.06A.050, 46.68.300, and 46.68.310.

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

Sec. 1. RCW 47.06A.020 and 2005 c 319 s 125 are each amended to read as follows:

(1) The board shall:

(a) Adopt rules and procedures necessary to implement the freight mobility strategic investment program;

(b) Solicit from public entities proposed projects that meet eligibility criteria established in accordance with subsection (4) of this section; and

(c) Review and evaluate project applications based on criteria established under this section, and prioritize and select projects comprising a portfolio to be funded in part with grants from state funds appropriated for the freight mobility strategic investment program. In determining the appropriate level of state funding for a project, the board shall ensure that state funds are allocated to leverage the greatest amount of partnership funding possible. ~~((After selecting projects comprising the portfolio, the board shall submit them as part of its budget request to the office of financial management and the legislature.))~~ The board shall ensure that projects ~~((submitted as part of))~~ included in the portfolio are not more appropriately funded with other federal, state, or local government funding mechanisms or programs. The board shall reject those projects that appear to improve overall general mobility with limited enhancement for freight mobility.

The board shall provide periodic progress reports on its activities to the office of financial management and the senate and house transportation committees.

(2) The board may:

(a) Accept from any state or federal agency, loans or grants for the financing of any transportation project and enter into agreements with any such agency concerning the loans or grants;

(b) Provide technical assistance to project applicants;

(c) Accept any gifts, grants, or loans of funds, property, or financial, or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

(d) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter; and

(e) Do all things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

(3) The board shall designate strategic freight corridors within the state. The board shall update the list of designated strategic corridors not less than every two years, and shall establish a method of collecting and verifying data, including information on city and county-owned roadways.

(4) The board shall utilize threshold project eligibility criteria that, at a minimum, includes the following:

(a) The project must be on a strategic freight corridor;

(b) The project must meet one of the following conditions:

(i) It is primarily aimed at reducing identified barriers to freight movement with only incidental benefits to general or personal mobility; or

(ii) It is primarily aimed at increasing capacity for the movement of freight with only incidental benefits to general or personal mobility; or

(iii) It is primarily aimed at mitigating the impact on communities of increasing freight movement, including roadway/railway conflicts; and

(c) The project must have a total public benefit/total public cost ratio of equal to or greater than one.

(5) From June 11, 1998, through the biennium ending June 30, 2001, the board shall use the multicriteria analysis and scoring framework for evaluating and ranking eligible freight mobility and freight mitigation projects developed by the freight mobility project prioritization committee and contained in the January 16, 1998, report entitled "Project Eligibility, Priority and Selection Process for a Strategic Freight Investment Program." The prioritization process shall measure the degree to which projects address important program objectives and shall generate a project score that reflects a project's priority compared to other projects. The board shall assign scoring points to each criterion that indicate the relative importance of the criterion in the overall determination of project priority. After June 30, 2001, the board may supplement and refine the initial project priority criteria and scoring framework developed by the freight mobility project prioritization committee as expertise and experience is gained in administering the freight mobility program.

(6) It is the intent of the legislature that each freight mobility project contained in the project portfolio (~~submitted~~) approved by the board utilize the greatest amount of nonstate funding possible. The board shall adopt rules that give preference to projects that contain the greatest levels of financial participation from nonprogram fund sources. The board shall consider twenty percent as the minimum partnership contribution, but shall also ensure that there are provisions allowing exceptions for projects that are located in areas where minimal local funding capacity exists or where the magnitude of the project makes the adopted partnership contribution financially unfeasible.

(7) The board shall develop and recommend policies that address operational improvements that primarily benefit and enhance freight movement, including, but not limited to, policies that reduce congestion in truck lanes at border crossings and weigh stations and provide for access to ports during nonpeak hours.

Sec. 2. RCW 47.06A.050 and 1998 c 175 s 6 are each amended to read as follows:

(1) For the purpose of allocating funds for the freight mobility strategic investment program, the board shall allocate the first fifty-five percent of funds to the highest priority projects, without regard to location.

(2) The remaining funds shall be allocated equally among three regions of the state, defined as follows:

(a) The Puget Sound region includes King, Pierce, and Snohomish counties;

(b) The western Washington region includes Clallam, Jefferson, Island, Kitsap, San Juan, Skagit, Whatcom, Clark, Cowlitz, Grays Harbor, Lewis, Mason, Pacific, Skamania, Thurston, and Wahkiakum counties; and

(c) The eastern Washington region includes Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Whitman, Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Klickitat, Walla Walla, and Yakima counties.

(3) If a region does not have enough qualifying projects to utilize its allocation of funds, the funds will be made available to the next highest priority project, without regard to location.

(4) In the event that a proposal contains projects in more than one region, for purposes of assuring that equitable geographic distributions are made under subsection (2) of this section, the board shall evaluate the proposal and proportionally assign the benefits that are attributable to each region.

(5) If the board identifies a project for funding, but later determines that the project is not ready to proceed (~~(at the time the legislature's funding decision is pending)~~), the board shall recommend removing the project from consideration and the next highest priority project shall be substituted in the project portfolio. Any project removed from funding consideration because it is not ready to proceed shall retain its position on the priority project list (~~(and is eligible to be recommended for funding in the next project portfolio submitted by the board)~~).

Sec. 3. RCW 46.68.300 and 2005 c 314 s 105 are each amended to read as follows:

The freight mobility investment account is hereby created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for freight mobility projects (~~((identified in the omnibus transportation appropriations act, including))~~) that have been approved by the freight mobility strategic investment board in RCW 47.06A.020 and may include any principal and interest on bonds authorized for the projects or improvements.

Sec. 4. RCW 46.68.310 and 2006 c 337 s 7 are each amended to read as follows:

The freight mobility multimodal account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for freight mobility projects (~~((identified in the omnibus transportation appropriations act, including))~~) that have been approved by the freight mobility strategic investment board in RCW 47.06A.020 and may include any principal and interest on bonds authorized for the projects or improvements.

Passed by the House February 27, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 105

[Substitute House Bill 1261]

CHILD ABUSE OR NEGLECT—CHILD PLACEMENT—EMERGENCY AND CRISIS CARE

AN ACT Relating to the provision of short-term emergency and crisis care for children removed from their homes; amending RCW 74.15.020; adding a new section to chapter 74.15 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 when a child is removed from his or her home due to suspected abuse or neglect it can take several hours or even days for placement plans to be made for the child during which time

caseworkers have to care for the child while also trying to locate an appropriate placement for him or her. The legislature also finds that licensed foster homes are often unable to take a child into their home if his or her care needs have not been thoroughly assessed or he or she is in immediate need of health care or social services. The legislature further finds that there are organizations in our state that are providing or wanting to provide short-term emergency and crisis care for children under the age of thirteen; however, there is currently no appropriate, cost-effective licensure category for organizations to provide these services. The legislature intends to create a resource and assessment center license for agencies to provide short-term emergency and crisis care for children ages birth through twelve, or for children ages thirteen through seventeen who have a sibling under thirteen years of age who have been removed from their homes by child protective services or law enforcement. The legislature further intends that resource and assessment centers be reimbursed at the same rate as foster family homes.

Sec. 2. RCW 74.15.020 and 2012 c 10 s 61 are each amended to read as follows:

The definitions in this section apply throughout this chapter and RCW 74.13.031 unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers, or persons with developmental disabilities for services rendered:

(a) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

(d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(f) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(i) "Resource and assessment center" means an agency that provides short-term emergency and crisis care for a period up to seventy-two hours, excluding Saturdays, Sundays, and holidays to children who have been removed from their parent's or guardian's care by child protective services or law enforcement.

(j) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

~~((j))~~ (k) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection ~~((a))~~, even after the marriage is terminated;

(v) Relatives, as named in (a)(i), (ii), (iii), or (iv) of this subsection ~~((a))~~, of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States citizenship and immigration services, or persons who have the care of such an international child in their home;

(f) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and assisted living facilities licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities approved and certified under chapter 71A.22 RCW;

(j) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

(m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

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

(4) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(5) "Performance-based contracts" or "contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts may also include provisions that link the performance of the contractor to the level and timing of the reimbursement.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(8) "Secretary" means the secretary of social and health services.

(9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(10) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(11) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the workforce investment act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

NEW SECTION. Sec. 3. A new section is added to chapter 74.15 RCW to read as follows:

(1) The secretary is authorized to license resource and assessment centers if the agency meets the following requirements:

(a) There is a demonstrated need in the local community for a resource and assessment center;

(b) The resource and assessment center will be primarily staffed by trained volunteers; and

(c) The resource and assessment center demonstrates it is not financially dependent on reimbursement from the state to operate.

(2) The department may adopt rules to specify licensing requirements for resource and assessment centers. Rules adopted by the department shall allow:

(a) A sufficient number of trained volunteers to meet staffing requirements;

(b) Flexibility in hours of operation and not require the resource and assessment center to be open if there are no children in its care; and

(c) The ability to operate in a residential area.

(3) Resource and assessment centers licensed under this section may:

(a) Provide care for children ages birth through twelve, or for children ages thirteen through seventeen who have a sibling or siblings under thirteen years of age who are being admitted to the resource and assessment center; and

(b) Operate up to twenty-four hours per day, and for up to seven days per week.

(4) Resource and assessment centers may not be used to address placement disruptions for children who have been removed from a foster home because of behavior or safety concerns.

Passed by the House March 6, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 106

[Substitute House Bill 1327]

MONEY TRANSMITTERS

AN ACT Relating to licensing and enforcement provisions applicable to money transmitters; amending RCW 19.230.020, 19.230.040, 19.230.110, 19.230.120, 19.230.150, 19.230.200, and 19.230.310; and reenacting and amending RCW 19.230.010.

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

Sec. 1. RCW 19.230.010 and 2010 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) "Affiliate" means any person who directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, another person.

(2) "Annual assessment due date" means the date specified in rule by the director upon which the annual assessment is due.

(3) "Applicant" means a person that files an application for a license under this chapter, including the applicant's proposed responsible individual and executive officers, and persons in control of the applicant.

(4) "Authorized delegate" means a person a licensee designates to provide money services on behalf of the licensee. A person that is exempt from licensing under this chapter cannot have an authorized delegate.

(5) "Board director" means a member of the applicant's or licensee's board of directors if the applicant is a corporation or limited liability company, or a partner if the applicant or licensee is a partnership.

(6) "Closed loop stored value ~~((device))~~" means ~~((a))~~ stored value ~~((device))~~, when that value or credit is primarily intended to be redeemed for a limited universe of goods, intangibles, services, or other items provided by the issuer of the stored value, its affiliates, or others involved in transactions functionally related to the issuer or its affiliates.

(7) "Control" means:

(a) Ownership of, or the power to vote, directly or indirectly, at least twenty-five percent of a class of voting securities or voting interests of a licensee or applicant, or person in control of a licensee or applicant;

(b) Power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or applicant, or person in control of a licensee or applicant; or

(c) Power to exercise directly or indirectly, a controlling influence over the management or policies of a licensee or applicant, or person in control of a licensee or applicant.

(8) "Currency exchange" means exchanging the money of one government for money of another government, or holding oneself out as able to exchange the money of one government for money of another government. The following persons are not considered currency exchangers:

(a) Affiliated businesses that engage in currency exchange for a business purpose other than currency exchange;

(b) A person who provides currency exchange services for a person acting primarily for a business, commercial, agricultural, or investment purpose when the currency exchange is incidental to the transaction;

(c) A person who deals in coins or a person who deals in money whose value is primarily determined because it is rare, old, or collectible; and

(d) A person who in the regular course of business chooses to accept from a customer the currency of a country other than the United States in order to complete the sale of a good or service other than currency exchange, that may include cash back to the customer, and does not otherwise trade in currencies or transmit money for compensation or gain.

(9) "Currency exchanger" means a person that is engaged in currency exchange.

(10) "Director" means the director of financial institutions.

(11) "Executive officer" means a president, chairperson of the executive committee, chief financial officer, responsible individual, or other individual who performs similar functions.

(12) "Financial institution" means any person doing business under the laws of any state or the United States relating to commercial banks, bank holding companies, savings banks, savings and loan associations, trust companies, or credit unions.

(13) "Licensee" means a person licensed under this chapter.

(14) "Material litigation" means litigation that according to generally accepted accounting principles is significant to an applicant's or a licensee's financial health and would be required to be disclosed in the applicant's or licensee's annual audited financial statements, report to shareholders, or similar records.

(15) "Mobile location" means a vehicle or movable facility where money services are provided.

(16) "Money" means a medium of exchange that is authorized or adopted by the United States or a foreign government or other recognized medium of exchange. "Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

(17) "Money services" means money transmission or currency exchange.

(18) "Money transmission" means receiving money or its equivalent value to transmit, deliver, or instruct to be delivered the money or its equivalent value to another location, inside or outside the United States, by any means including but not limited to by wire, facsimile, or electronic transfer. "Money transmission" does not include the provision solely of connection services to the internet, telecommunications services, or network access. "Money transmission" includes selling, issuing, or acting as an intermediary for open loop stored value ((~~device~~)) and payment instruments, but not closed loop stored value ((~~device~~)).

(19) "Money transmitter" means a person that is engaged in money transmission.

(20) "Open loop stored value ((~~device~~))" means ((~~a~~)) stored value ((~~device~~)) redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines.

(21) "Outstanding money transmission" means the value of all money transmissions reported to the licensee for which the money transmitter has received money or its equivalent value from the customer for transmission, but has not yet completed the money transmission by delivering the money or monetary value to the person designated by the customer.

(22) "Payment instrument" means a check, draft, money order, or traveler's check for the transmission or payment of money or its equivalent value, whether or not negotiable. "Payment instrument" does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

(23) "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.

(24) "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.

(25) "Responsible individual" means an individual who is employed by a licensee and has principal managerial authority over the provision of money services by the licensee in this state.

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

(27) "Stored value ((~~device~~))" means a card or other device that electronically stores or provides access to funds and is available for making payments to others.

(28) "Tangible net worth" means the physical worth of a licensee, calculated by taking a licensee's assets and subtracting its liabilities and its intangible assets, such as copyrights, patents, intellectual property, and goodwill.

(29) "Unsafe or unsound practice" means a practice or conduct by a person licensed to provide money services, or an authorized delegate of such a person, which creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the financial condition of the licensee or the interests of its customers.

Sec. 2. RCW 19.230.020 and 2010 c 73 s 2 are each amended to read as follows:

This chapter does not apply to:

- (1) The United States or a department, agency, or instrumentality thereof;
- (2) Money transmission by the United States postal service or by a contractor on behalf of the United States postal service;
- (3) A state, county, city, or a department, agency, or instrumentality thereof;
- (4) A financial institution or its subsidiaries, affiliates, and service corporations, or any office of an international banking corporation, branch of a foreign bank, or corporation organized pursuant to the Bank Service Corporation Act (12 U.S.C. Sec. 1861-1867) or a corporation organized under the Edge Act (12 U.S.C. Sec. 611-633);
- (5) Electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or a state or governmental subdivision, agency, or instrumentality thereof;
- (6) A board of trade designated as a contract market under the federal Commodity Exchange Act (7 U.S.C. Sec. 1-25) or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as, or for, a board of trade;
- (7) A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant;
- (8) A person that provides clearance or settlement services under a registration as a clearing agency, or an exemption from that registration granted under the federal securities laws, to the extent of its operation as such a provider;
- (9) An operator of a payment system only to the extent that it provides processing, clearing, or settlement services, between or among persons who are all excluded by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearinghouse transfers, or similar funds transfers;
- (10) A person registered as a securities broker-dealer or investment advisor under federal or state securities laws to the extent of its operation as such a broker-dealer or investment advisor;
- (11) An insurance company, title insurance company, or escrow agent to the extent that such an entity is lawfully authorized to conduct business in this state as an insurance company, title insurance company, or escrow agent and to the extent that they engage in money transmission or currency exchange as an ancillary service when conducting insurance, title insurance, or escrow activity;
- (12) The issuance, sale, use, redemption, or exchange of closed loop stored value ((~~devices~~)) or of payment instruments by a person licensed under chapter 31.45 RCW;
- (13) An attorney, to the extent that the attorney is lawfully authorized to practice law in this state and to the extent that the attorney engages in money transmission or currency exchange as an ancillary service to the practice of law; or
- (14) A stored value ((~~device~~)) seller or issuer when the funds ((~~on the device~~)) are covered by federal deposit insurance immediately upon sale or issue.

The director may, at his or her discretion, waive applicability of the licensing provisions of this chapter when the director determines it necessary to facilitate commerce and protect consumers. The director may adopt rules to implement this section.

Sec. 3. RCW 19.230.040 and 2003 c 287 s 6 are each amended to read as follows:

(1) A person applying for a money transmitter license under this chapter shall do so in a form and in a medium prescribed in rule by the director. The application must state or contain:

(a) The legal name, business addresses, and residential address, if applicable, of the applicant and any fictitious or trade name used by the applicant in conducting its business;

(b) The legal name, residential and business addresses, date of birth, social security number, employment history for the five-year period preceding the submission of the application of the applicant's proposed responsible individual, and documentation that the proposed responsible individual is a citizen of the United States or has obtained legal immigration status to work in the United States. In addition, the applicant shall provide the fingerprints of the proposed responsible individual upon the request of the director;

(c) For the ten-year period preceding submission of the application, a list of any criminal convictions of the proposed responsible individual of the applicant, any material litigation in which the applicant has been involved, and any litigation involving the proposed responsible individual relating to the provision of money services;

(d) A description of any money services previously provided by the applicant and the money services that the applicant seeks to provide (~~in this state~~) to persons in Washington state;

(e) A list of the applicant's proposed authorized delegates and the locations (~~in this state~~) where the applicant and its authorized delegates (~~propose to~~) will engage in the provision of money services to persons in Washington state on behalf of the licensee;

(f) A list of other states in which the applicant is licensed to engage in money transmission, or provide other money services, and any license revocations, suspensions, restrictions, or other disciplinary action taken against the applicant in another state;

(g) A list of any license revocations, suspensions, restrictions, or other disciplinary action taken against any money services business involving the proposed responsible individual;

(h) Information concerning any bankruptcy or receivership proceedings involving or affecting the applicant or the proposed responsible individual;

(i) A sample form of contract for authorized delegates, if applicable;

(j) A description of the source of money and credit to be used by the applicant to provide money services; and

(k) Any other information regarding the background, experience, character, financial responsibility, and general fitness of the applicant, the applicant's responsible individual, or authorized delegates that the director may require in rule.

(2) If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:

(a) The date of the applicant's incorporation or formation and state or country of incorporation or formation;

(b) If applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(c) A brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(d) The legal name, any fictitious or trade name, all business and residential addresses, date of birth, social security number, and employment history in the ten-year period preceding the submission of the application for each executive officer, board director, or person that has control of the applicant;

(e) If the applicant or its corporate parent is not a publicly traded entity, the director may request the fingerprints of each executive officer, board director, or person that has control of the applicant;

(f) A list of any criminal convictions, material litigation, and any litigation related to the provision of money services, in the ten-year period preceding the submission of the application in which any executive officer, board director, or person in control of the applicant has been involved;

(g) A copy of the applicant's audited financial statements for the most recent fiscal year or, if the applicant is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the applicant's most recent audited consolidated annual financial statement, and in each case, if available, for the two-year period preceding the submission of the application;

(h) A copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period preceding the submission of the application;

(i) If the applicant is publicly traded, a copy of the most recent report filed with the United States securities and exchange commission under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m);

(j) If the applicant is a wholly owned subsidiary of:

(i) A corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed under section 13 of the federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78m); or

(ii) A corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(k) If the applicant has a registered agent in this state, the name and address of the applicant's registered agent in this state; and

(l) Any other information that the director may require in rule regarding the applicant, each executive officer, or each board director to determine the applicant's background, experience, character, financial responsibility, and general fitness.

(3) A nonrefundable application fee and an initial license fee, as determined in rule by the director, must accompany an application for a license under this chapter. The initial license fee must be refunded if the application is denied.

(4) As part of or in connection with an application for any license under this section, or periodically upon license renewal, each officer, director, and owner

applicant shall furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol or the federal bureau of investigation for a state and national criminal history background check, personal history, experience, business record, purposes, and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this chapter, or periodically upon license renewal, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The department may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles 30, 32, and 33 RCW. The requirements of this subsection do not apply when the applicant or its corporate parents are publicly traded entities.

(5) The director may waive one or more requirements (~~of subsection (1) or (2)~~) of this section or permit an applicant to submit other information in lieu of the required information.

Sec. 4. RCW 19.230.110 and 2010 c 73 s 6 are each amended to read as follows:

(1) A licensee shall pay an annual assessment as established in rule by the director no later than the annual assessment due date or, if the annual assessment due date is not a business day, on the next business day. A licensee shall pay an annual assessment based on the previous year's Washington dollar volume of: (a) Money transmissions; (b) payment instruments; (c) currency exchanges; and (d) stored value sales. The total minimum assessment must be one thousand dollars per year, and the maximum assessment may not exceed one hundred thousand dollars per year.

(2) A licensee shall submit an accurate annual report with the annual assessment, in a form and in a medium prescribed by the director in rule. The annual report must state or contain:

(a) If the licensee is a money transmitter, a copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the licensee's most recent audited consolidated annual financial statement;

(b) A description of each material change, as defined in rule by the director, to information submitted by the licensee in its original license application which has not been previously reported to the director on any required report;

(c) If the licensee is a money transmitter, a list of the licensee's permissible investments and a certification that the licensee continues to maintain permissible investments according to the requirements set forth in RCW 19.230.200 and 19.230.210;

(d) If the licensee is a money transmitter, proof that the licensee continues to maintain adequate security as required by RCW 19.230.050; and

(e) A list of the locations (~~in this state~~) where the licensee or an authorized delegate of the licensee engages in or provides money services to persons in Washington state.

(3) If a licensee does not file an annual report or pay its annual assessment by the annual assessment due date, the director or the director's designee shall send the licensee a notice of suspension and assess the licensee a late fee not to

exceed twenty-five percent of the annual assessment as established in rule by the director. The licensee's annual report and payment of both the annual assessment and the late fee must arrive in the department's offices by 5:00 p.m. on the thirtieth day after the assessment due date or any extension of time granted by the director, unless that date is not a business day, in which case the licensee's annual report and payment of both the annual assessment and the late fee must arrive in the department's offices by 5:00 p.m. on the next occurring business day. If the licensee's annual report and payment of both the annual assessment and late fee do not arrive by such date, the expiration of the licensee's license is effective at 5:00 p.m. on the thirtieth day after the assessment due date, unless that date is not a business day, in which case the expiration of the licensee's license is effective at 5:00 p.m. on the next occurring business day. The director, or the director's designee, may reinstate the license if, within twenty days after its effective date, the licensee:

(a) Files the annual report and pays both the annual assessment and the late fee; and

(b) Did not engage in or provide money services during the period its license was expired.

Sec. 5. RCW 19.230.120 and 2003 c 287 s 14 are each amended to read as follows:

(1) In this section, "remit" means to make direct payments of money to a licensee or its representative authorized to receive money or to deposit money in a bank in an account specified by the licensee.

(2) A contract between a licensee and an authorized delegate must require the authorized delegate to operate in full compliance with this chapter and the rules adopted under this chapter.

(3) Neither the licensee nor an authorized delegate may authorize subdelegates.

(4) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.

(5) If a license is suspended or revoked or a licensee surrenders its license, the director shall notify all of the licensee's authorized delegates (~~(of the licensee)~~) whose names are filed with the director, at the address of record with the director, of the suspension, revocation, or surrender and shall publish the name of the licensee. An authorized delegate shall immediately cease to provide money services as a delegate of the licensee upon receipt of notice, or after publication is made, that the licensee's license has been suspended, revoked, or surrendered.

(6) An authorized delegate may not provide money services other than those allowed the licensee under its license. In addition, an authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except activity in which the authorized delegate is authorized to engage under RCW 19.230.030 or 19.230.080.

Sec. 6. RCW 19.230.150 and 2003 c 287 s 17 are each amended to read as follows:

(1) A licensee shall file with the director within thirty business days any material changes in information provided in a licensee's application as prescribed in rule by the director. If this information indicates that the licensee is no longer in compliance with this chapter, the director may take any action authorized under this chapter to ensure that the licensee operates in compliance with this chapter.

(2) A licensee shall file with the director within forty-five days after the end of each fiscal quarter a current list of all authorized delegates ~~((and locations in this state where the licensee, or an authorized delegate of the licensee, provides money services, including mobile locations. The licensee shall state the name and street address of each location and authorized delegate operating at the location))~~ including the name, address, and e-mail address, if available, of each authorized delegate providing money services to persons in Washington. The licensee shall also file with the director within forty-five days after the end of each fiscal quarter a current list of all licensee locations providing money services to persons in Washington, including mobile locations, which includes the address, and e-mail address if available, of the licensee.

(3) A licensee shall file a report with the director within one business day after the licensee has reason to know of the occurrence of any of the following events:

(a) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, under the United States Bankruptcy Code (11 U.S.C. Sec. 101-110) for bankruptcy or reorganization;

(b) The filing of a petition by or against the licensee, or any authorized delegate of the licensee, for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of its creditors;

(c) The commencement of a proceeding to revoke, suspend, restrict, or condition its license, or otherwise discipline or sanction the licensee, in a state or country in which the licensee engages in business or is licensed;

(d) The cancellation or other impairment of the licensee's bond or other security;

(e) A charge or conviction of the licensee or of an executive officer, responsible individual, board director of the licensee, or person in control of the licensee, for a felony; or

(f) A charge or conviction of an authorized delegate for a felony.

Sec. 7. RCW 19.230.200 and 2010 c 73 s 9 are each amended to read as follows:

(1)~~(a)~~ A money transmitter licensee shall maintain, at all times, permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the amount of the licensee's average outstanding money transmission liability.

~~(b)~~ For the purposes of this section, average outstanding money transmission liability means the sum of the daily amounts of a licensee's outstanding money transmissions, as computed each day of the month divided by the number of days in the month.

(2) The director, with respect to any money transmitter licensee, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money, time

deposits, savings deposits, demand deposits, and certificates of deposit issued by a federally insured financial institution. The director may prescribe in rule, or by order allow, other types of investments that the director determines to have a safety substantially equivalent to other permissible investments.

Sec. 8. RCW 19.230.310 and 2003 c 287 s 33 are each amended to read as follows:

The director has the authority and administrative discretion to administer and interpret this chapter to fulfill the intent of the legislature as expressed in RCW 19.230.005. In accordance with chapter 34.05 RCW, the director may issue rules under this chapter that are clearly required to govern the activities of licensees and other persons subject to this chapter.

Passed by the House March 7, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 107

[House Bill 1351]

BEER AND WINE—LABELS

AN ACT Relating to identifying wineries, breweries, and microbreweries on private labels; and reenacting and amending RCW 66.28.310.

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

Sec. 1. RCW 66.28.310 and 2011 c 119 s 101 and 2011 c 66 s 3 are each reenacted and amended to read as follows:

(1)(a) Nothing in RCW 66.28.305 prohibits an industry member from providing retailers branded promotional items which are of nominal value, singly or in the aggregate. Such items include but are not limited to: Trays, lighters, blotters, postcards, pencils, coasters, menu cards, meal checks, napkins, clocks, mugs, glasses, bottles or can openers, corkscrews, matches, printed recipes, shirts, hats, visors, and other similar items. Branded promotional items:

(i) Must be used exclusively by the retailer or its employees in a manner consistent with its license;

(ii) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;

(iii) May be provided by industry members only to retailers and their employees and may not be provided by or through retailers or their employees to retail customers; and

(iv) May not be targeted to or appeal principally to youth.

(b) An industry member is not obligated to provide any such branded promotional items, and a retailer may not require an industry member to provide such branded promotional items as a condition for selling any alcohol to the retailer.

(c) Any industry member or retailer or any other person asserting that the provision of branded promotional items as allowed in (a) of this subsection has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria

in (a) of this subsection may file a complaint with the board. Upon receipt of a complaint the board may conduct such investigation as it deems appropriate in the circumstances. If the investigation reveals the provision of branded promotional items has resulted in or is more likely than not to result in undue influence or has resulted or is more likely than not to result in an adverse impact on public health and safety or is otherwise inconsistent with (a) of this subsection the board may issue an administrative violation notice to the industry member, to the retailer, or both. The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

(2) Nothing in RCW 66.28.305 prohibits:

(a) An industry member from providing to a special occasion licensee and a special occasion licensee from receiving services for:

(i) Installation of draft beer dispensing equipment or advertising;

(ii) Advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event; or

(iii) Pouring or dispensing of spirits by a licensed domestic distiller or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310; or

(b) Special occasion licensees from paying for beer or wine immediately following the end of the special occasion event; or

(c) Wineries or breweries that are participating in a special occasion event from paying reasonable booth fees to the special occasion licensee.

(3) Nothing in RCW 66.28.305 prohibits industry members from performing, and retailers from accepting the service of building, rotating, and restocking displays and stockroom inventories; rotating and rearranging can and bottle displays of their own products; providing point of sale material and brand signs; pricing case goods of their own brands; and performing such similar business services consistent with board rules, or personal services as described in subsection (5) of this section.

(4) Nothing in RCW 66.28.305 prohibits:

(a) Industry members from listing on their internet web sites information related to retailers who sell or promote their products, including direct links to the retailers' internet web sites; and

(b) Retailers from listing on their internet web sites information related to industry members whose products those retailers sell or promote, including direct links to the industry members' web sites; or

(c) Industry members and retailers from producing, jointly or together with regional, state, or local industry associations, brochures and materials promoting tourism in Washington state which contain information regarding retail licensees, industry members, and their products.

(5) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic winery or certificate of approval holder to retailers when the personal services are (a) conducted at a licensed premises, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation and pouring, bottle signing events, and other similar informational or educational activities at the premises of a retailer holding a spirits, beer, and wine restaurant license, a wine and/or beer restaurant license, a specialty wine shop license, a special occasion license, a

grocery store license with a tasting endorsement, or a private club license. A domestic winery or certificate of approval holder is not obligated to perform any such personal services, and a retail licensee may not require a domestic winery or certificate of approval holder to conduct any personal service as a condition for selling any alcohol to the retail licensee, or as a condition for including any product of the domestic winery or certificate of approval holder in any tasting conducted by the licensee. Except as provided in RCW 66.28.150, the cost of sampling may not be borne, directly or indirectly, by any domestic winery or certificate of approval holder or any distributor. Nothing in this section prohibits wineries, breweries, microbreweries, certificate of approval holders, and retail licensees from identifying the producers on private labels authorized under RCW 66.24.400, 66.24.425, ~~((and))~~ 66.24.450, 66.24.360, and 66.24.371.

(6) Nothing in RCW 66.28.305 prohibits an industry member from entering into an arrangement with any holder of a sports entertainment facility license or an affiliated business for brand advertising at the licensed facility or promoting events held at the sports entertainment facility as authorized under RCW 66.24.570.

(7) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic brewery, microbrewery, or beer certificate of approval holder to grocery store licensees with a tasting endorsement when the personal services are (a) conducted at a licensed premises in conjunction with a tasting event, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation and pouring, bottle signing events, and other similar informational or educational activities. A domestic brewery, microbrewery, or beer certificate of approval holder is not obligated to perform any such personal services, and a grocery store licensee may not require the performance of any personal service as a condition for including any product in any tasting conducted by the licensee.

(8) Nothing in RCW 66.28.305 prohibits an arrangement between a domestic winery and a restaurant licensed under RCW 66.24.320 or 66.24.400 to waive a corkage fee.

(9) Nothing in this section prohibits professional sports teams who hold a retail liquor license or their agents from accepting bona fide liquor advertising from manufacturers, importers, distributors, or their agents for use in the sporting arena. Professional sports teams who hold a retail liquor license or their agents may license the manufacturer, importer, distributor, or their agents to use the name and trademarks of the professional sports team in their advertising and promotions, under the following conditions:

(a) Such advertising must be paid for by said manufacturer, importer, distributor, or their agent at the published advertising rate or at a reasonable fair market value.

(b) Such advertising may carry with it no express or implied offer on the part of the manufacturer, importer, distributor, or their agent, or promise on the part of the retail licensee whose operation is directly or indirectly part of the sporting arena, to stock or list any particular brand of liquor to the total or partial exclusion of any other brand.

Passed by the House March 5, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.
 Filed in Office of Secretary of State May 1, 2013.

CHAPTER 108

[Substitute House Bill 1370]

HOMEOWNERS' ASSOCIATIONS—MEETINGS—NOTICE

AN ACT Relating to the notice requirement for homeowners' associations meetings; and amending RCW 64.38.035.

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

Sec. 1. RCW 64.38.035 and 1995 c 283 s 7 are each amended to read as follows:

(1) A meeting of the association must be held at least once each year. Special meetings of the association may be called by the president, a majority of the board of directors, or by owners having ten percent of the votes in the association.

(2) Not less than fourteen nor more than sixty days in advance of any meeting of the association, the secretary or other officers specified in the bylaws shall ~~((cause notice to be hand-delivered or sent))~~ provide written notice to each owner of record by:

(a) Hand-delivery to the mailing address of the owner or other address designated in writing by the owner;

(b) Prepaid ((by)) first-class United States mail to the mailing address of ((each)) the owner or to any other mailing address designated in writing by the owner; or

(c) Electronic transmission to an address, location, or system designated in writing by the owner. Notice to owners by an electronic transmission complies with this section only with respect to those owners who have delivered to the secretary or other officers specified in the bylaws a written record consenting to receive electronically transmitted notices. An owner who has consented to receipt of electronically transmitted notices may revoke the consent at any time by delivering a written record of the revocation to the secretary or other officer specified in the bylaws. Consent is deemed revoked if the secretary or other officer specified in the bylaws is unable to electronically transmit two consecutive notices given in accordance with the consent.

(3) The notice of any meeting shall state the time and place of the meeting and the business to be placed on the agenda by the board of directors for a vote by the owners, including the general nature of any proposed amendment to the articles of incorporation, bylaws, any budget or changes in the previously approved budget that result in a change in assessment obligation, and any proposal to remove a director.

~~((2))~~ (4) Except as provided in this subsection, all meetings of the board of directors shall be open for observation by all owners of record and their authorized agents. The board of directors shall keep minutes of all actions taken by the board, which shall be available to all owners. Upon the affirmative vote in open meeting to assemble in closed session, the board of directors may convene in closed executive session to consider personnel matters; consult with legal counsel or consider communications with legal counsel; and discuss likely or pending litigation, matters involving possible violations of the governing

documents of the association, and matters involving the possible liability of an owner to the association. The motion shall state specifically the purpose for the closed session. Reference to the motion and the stated purpose for the closed session shall be included in the minutes. The board of directors shall restrict the consideration of matters during the closed portions of meetings only to those purposes specifically exempted and stated in the motion. No motion, or other action adopted, passed, or agreed to in closed session may become effective unless the board of directors, following the closed session, reconvenes in open meeting and votes in the open meeting on such motion, or other action which is reasonably identified. The requirements of this subsection shall not require the disclosure of information in violation of law or which is otherwise exempt from disclosure.

Passed by the House February 27, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 109

[Engrossed Substitute House Bill 1381]

DEPARTMENT OF HEALTH—ADMINISTRATIVE ADJUDICATORY PROCEEDINGS

AN ACT Relating to administrative adjudicatory proceedings coming before the department of health; amending RCW 18.130.050, 18.130.095, 34.05.425, and 34.12.040; and adding a new section to chapter 43.70 RCW.

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

Sec. 1. RCW 18.130.050 and 2008 c 134 s 3 are each amended to read as follows:

Except as provided in RCW 18.130.062, the disciplining authority has the following authority:

(1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;

(2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter;

(3) To hold hearings as provided in this chapter;

(4) To issue subpoenas and administer oaths in connection with any investigation, consideration of an application for license, hearing, or proceeding held under this chapter;

(5) To take or cause depositions to be taken and use other discovery procedures as needed in any investigation, hearing, or proceeding held under this chapter;

(6) To compel attendance of witnesses at hearings;

(7) In the course of investigating a complaint or report of unprofessional conduct, to conduct practice reviews and to issue citations and assess fines for failure to produce documents, records, or other items in accordance with RCW 18.130.230;

(8) To take emergency action ordering summary suspension of a license, or restriction or limitation of the license holder's practice pending proceedings by the disciplining authority. Within fourteen days of a request by the affected license holder, the disciplining authority must provide a show cause hearing in

accordance with the requirements of RCW 18.130.135. Consistent with RCW 18.130.370, a disciplining authority shall issue a summary suspension of the license or temporary practice permit of a license holder prohibited from practicing a health care profession in another state, federal, or foreign jurisdiction because of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct prohibited by this chapter or any of the chapters specified in RCW 18.130.040. The summary suspension remains in effect until proceedings by the Washington disciplining authority have been completed;

(9) To conduct show cause hearings in accordance with RCW 18.130.062 or 18.130.135 to review an action taken by the disciplining authority to suspend a license or restrict or limit a license holder's practice pending proceedings by the disciplining authority;

(10) To use a presiding officer as authorized in RCW 18.130.095(3) or the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. ~~((The))~~ Disciplining ((authority)) authorities identified in RCW 18.130.040(2) shall make the final decision regarding disposition of the license unless the disciplining authority elects to delegate in writing the final decision to the presiding officer. Disciplining authorities identified in RCW 18.130.040(2)(b) may not delegate the final decision regarding disposition of the license or imposition of sanctions to a presiding officer in any case pertaining to standards of practice or where clinical expertise is necessary, including deciding any motion that results in dismissal of any allegation contained in the statement of charges. Presiding officers acting on behalf of the secretary shall enter initial orders. The secretary may, by rule, provide that initial orders in specified classes of cases may become final without further agency action unless, within a specified time period:

(a) The secretary upon his or her own motion determines that the initial order should be reviewed; or

(b) A party to the proceedings files a petition for administrative review of the initial order;

(11) To use individual members of the boards to direct investigations and to authorize the issuance of a citation under subsection (7) of this section. However, the member of the board shall not subsequently participate in the hearing of the case;

(12) To enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(13) To contract with license holders or other persons or organizations to provide services necessary for the monitoring and supervision of license holders who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the disciplining authority;

(14) To adopt standards of professional conduct or practice;

(15) To grant or deny license applications, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any sanction against a license applicant or license holder provided by this chapter. After January 1, 2009, all sanctions must be issued in accordance with RCW 18.130.390;

(16) To restrict or place conditions on the practice of new licensees in order to protect the public and promote the safety of and confidence in the health care system;

(17) To designate individuals authorized to sign subpoenas and statements of charges;

(18) To establish panels consisting of three or more members of the board to perform any duty or authority within the board's jurisdiction under this chapter;

(19) To review and audit the records of licensed health facilities' or services' quality assurance committee decisions in which a license holder's practice privilege or employment is terminated or restricted. Each health facility or service shall produce and make accessible to the disciplining authority the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to discovery or introduction into evidence in any civil action pursuant to RCW 70.41.200(3).

Sec. 2. RCW 18.130.095 and 2008 c 134 s 9 are each amended to read as follows:

(1)(a) The secretary, in consultation with the disciplining authorities, shall develop uniform procedural rules to respond to public inquiries concerning complaints and their disposition, active investigations, statement of charges, findings of fact, and final orders involving a license holder, applicant, or unlicensed person. The uniform procedural rules adopted under this subsection apply to all adjudicative proceedings conducted under this chapter and shall include provisions for establishing time periods for initial assessment, investigation, charging, discovery, settlement, and adjudication of complaints, and shall include enforcement provisions for violations of the specific time periods by the department, the disciplining authority, and the respondent. A license holder must be notified upon receipt of a complaint, except when the notification would impede an effective investigation. At the earliest point of time the license holder must be allowed to submit a written statement about that complaint, which statement must be included in the file. Complaints filed after July 27, 1997, are exempt from public disclosure under chapter 42.56 RCW until the complaint has been initially assessed and determined to warrant an investigation by the disciplining authority. Complaints determined not to warrant an investigation by the disciplining authority are no longer considered complaints, but must remain in the records and tracking system of the department. Information about complaints that did not warrant an investigation, including the existence of the complaint, may be released only upon receipt of a written public disclosure request or pursuant to an interagency agreement as provided in (b) of this subsection. Complaints determined to warrant no cause for action after investigation are subject to public disclosure, must include an explanation of the determination to close the complaint, and must remain in the records and tracking system of the department.

(b) The secretary, on behalf of the disciplining authorities, shall enter into interagency agreements for the exchange of records, which may include complaints filed but not yet assessed, with other state agencies if access to the records will assist those agencies in meeting their federal or state statutory responsibilities. Records obtained by state agencies under the interagency agreements are subject to the limitations on disclosure contained in (a) of this subsection.

(2) The uniform procedures for conducting investigations shall provide that prior to taking a written statement:

(a) For violation of this chapter, the investigator shall inform such person, in writing of: (i) The nature of the complaint; (ii) that the person may consult with legal counsel at his or her expense prior to making a statement; and (iii) that any statement that the person makes may be used in an adjudicative proceeding conducted under this chapter; and

(b) From a witness or potential witness in an investigation under this chapter, the investigator shall inform the person, in writing, that the statement may be released to the license holder, applicant, or unlicensed person under investigation if a statement of charges is issued.

(3) Only upon the authorization of a disciplining authority identified in RCW 18.130.040(2)(b), the secretary, or his or her designee, may serve as the presiding officer for any disciplinary proceedings of the disciplining authority authorized under this chapter. The presiding officer shall not vote on or make any final decision in cases pertaining to standards of practice or where clinical expertise is necessary. All functions performed by the presiding officer shall be subject to chapter 34.05 RCW. The secretary, in consultation with the disciplining authorities, shall adopt procedures for implementing this subsection.

(4) Upon delegation from the secretary, a presiding officer may conduct disciplinary proceedings for professions identified in RCW 18.130.040(2)(a). All functions performed by the presiding officer are subject to chapter 34.05 RCW. Decisions of the presiding officer are initial decisions subject to review by the secretary. The secretary shall adopt procedures for implementing this subsection.

(5) The uniform procedural rules shall be adopted by all disciplining authorities listed in RCW 18.130.040(2), and shall be used for all adjudicative proceedings conducted under this chapter, as defined by chapter 34.05 RCW. The uniform procedural rules shall address the use of a presiding officer authorized in subsections (3) and (4) of this section to determine and issue decisions on all legal issues and motions arising during adjudicative proceedings.

NEW SECTION. Sec. 3. A new section is added to chapter 43.70 RCW to read as follows:

In all adjudicative proceedings before the secretary or the department, the secretary may delegate initial decision-making authority to a presiding officer. The presiding officer shall enter an initial order pursuant to RCW 34.05.461 subject to the review of the secretary or his or her designee. Pursuant to RCW 34.05.464, the secretary may, by rule, provide that initial orders in specified classes of cases may become final without further agency action unless, within a specified time period:

(1) The secretary upon his or her own motion determines that the initial order should be reviewed; or

(2) A party to the proceedings files a petition for administrative review of the initial order.

Sec. 4. RCW 34.05.425 and 1989 c 175 s 14 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, in the discretion of the agency head, the presiding officer in an administrative hearing shall be:

(a) The agency head or one or more members of the agency head;

(b) If the agency has statutory authority to do so, a person other than the agency head or an administrative law judge designated by the agency head to make the final decision and enter the final order; ~~((e))~~

(c) One or more administrative law judges assigned by the office of administrative hearings in accordance with chapter 34.12 RCW; or

(d) A person or persons designated by the secretary of health pursuant to section 3 of this act.

(2) An agency expressly exempted under RCW 34.12.020(4) or other statute from the provisions of chapter 34.12 RCW or an institution of higher education shall designate a presiding officer as provided by rules adopted by the agency.

(3) Any individual serving or designated to serve alone or with others as presiding officer is subject to disqualification for bias, prejudice, interest, or any other cause provided in this chapter or for which a judge is disqualified.

(4) Any party may petition for the disqualification of an individual promptly after receipt of notice indicating that the individual will preside or, if later, promptly upon discovering facts establishing grounds for disqualification.

(5) The individual whose disqualification is requested shall determine whether to grant the petition, stating facts and reasons for the determination.

(6) When the presiding officer is an administrative law judge, the provisions of this section regarding disqualification for cause are in addition to the motion of prejudice available under RCW 34.12.050.

(7) If a substitute is required for an individual who becomes unavailable as a result of disqualification or any other reason, the substitute must be appointed by the appropriate appointing authority.

(8) Any action taken by a duly appointed substitute for an unavailable individual is as effective as if taken by the unavailable individual.

Sec. 5. RCW 34.12.040 and 1981 c 67 s 4 are each amended to read as follows:

Except pursuant to section 3 of this act, whenever a state agency conducts a hearing which is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by an administrative law judge assigned under this chapter. In assigning administrative law judges, the chief administrative law judge shall wherever practical (1) use personnel having expertise in the field or subject matter of the hearing, and (2) assign administrative law judges primarily to the hearings of particular agencies on a long-term basis.

Passed by the House March 11, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 110

[Engrossed House Bill 1400]

ADMINISTRATIVE PROCEEDINGS—ELECTRONIC NOTICE

AN ACT Relating to clarifying that service includes electronic distribution of hearing notices and orders in administrative proceedings; and amending RCW 34.05.434, 34.05.461, and 34.05.010.

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

Sec. 1. RCW 34.05.434 and 1988 c 288 s 409 are each amended to read as follows:

(1) The agency or the office of administrative hearings shall set the time and place of the hearing and give not less than seven days advance written notice to all parties and to all persons who have filed written petitions to intervene in the matter.

(2) The notice shall include:

(a) Unless otherwise ordered by the presiding officer, the names and mailing addresses of all parties to whom notice is being given and, if known, the names and addresses of their representatives;

(b) If the agency intends to appear, the mailing address and telephone number of the office designated to represent the agency in the proceeding;

(c) The official file or other reference number and the name of the proceeding;

(d) The name, official title, mailing address, and telephone number of the presiding officer, if known;

(e) A statement of the time, place and nature of the proceeding;

(f) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(g) A reference to the particular sections of the statutes and rules involved;

(h) A short and plain statement of the matters asserted by the agency; and

(i) A statement that a party who fails to attend or participate in a hearing or other stage of an adjudicative proceeding may be held in default in accordance with this chapter.

(3) If the agency is unable to state the matters required by subsection (2)(h) of this section at the time the notice is served, the initial notice may be limited to a statement of the issues involved. If the proceeding is initiated by a person other than the agency, the initial notice may be limited to the inclusion of a copy of the initiating document. Thereafter, upon request, a more definite and detailed statement shall be furnished.

(4) The notice may include any other matters considered desirable by the agency.

(5) The notice may be served on a party via electronic distribution, with a party's agreement.

Sec. 2. RCW 34.05.461 and 1995 c 347 s 312 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section:

(a) If the presiding officer is the agency head or one or more members of the agency head, the presiding officer may enter an initial order if further review is available within the agency, or a final order if further review is not available;

(b) If the presiding officer is a person designated by the agency to make the final decision and enter the final order, the presiding officer shall enter a final order; and

(c) If the presiding officer is one or more administrative law judges, the presiding officer shall enter an initial order.

(2) With respect to agencies exempt from chapter 34.12 RCW or an institution of higher education, the presiding officer shall transmit a full and complete record of the proceedings, including such comments upon demeanor of witnesses as the presiding officer deems relevant, to each agency official who is to enter a final or initial order after considering the record and evidence so transmitted.

(3) Initial and final orders shall include a statement of findings and conclusions, and the reasons and basis therefor, on all the material issues of fact, law, or discretion presented on the record, including the remedy or sanction and, if applicable, the action taken on a petition for a stay of effectiveness. Any findings based substantially on credibility of evidence or demeanor of witnesses shall be so identified. Findings set forth in language that is essentially a repetition or paraphrase of the relevant provision of law shall be accompanied by a concise and explicit statement of the underlying evidence of record to support the findings. The order shall also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief. An initial order shall include a statement of any circumstances under which the initial order, without further notice, may become a final order.

(4) Findings of fact shall be based exclusively on the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. Findings shall be based on the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Findings may be based on such evidence even if it would be inadmissible in a civil trial. However, the presiding officer shall not base a finding exclusively on such inadmissible evidence unless the presiding officer determines that doing so would not unduly abridge the parties' opportunities to confront witnesses and rebut evidence. The basis for this determination shall appear in the order.

(5) Where it bears on the issues presented, the agency's experience, technical competency, and specialized knowledge may be used in the evaluation of evidence.

(6) If a person serving or designated to serve as presiding officer becomes unavailable for any reason before entry of the order, a substitute presiding officer shall be appointed as provided in RCW 34.05.425. The substitute presiding officer shall use any existing record and may conduct any further proceedings appropriate in the interests of justice.

(7) The presiding officer may allow the parties a designated time after conclusion of the hearing for the submission of memos, briefs, or proposed findings.

(8)(a) Except as otherwise provided in (b) of this subsection, initial or final orders shall be served in writing within ninety days after conclusion of the hearing or after submission of memos, briefs, or proposed findings in accordance with subsection (7) of this section unless this period is waived or extended for good cause shown. The initial or final order may be served on a party via electronic distribution, with a party's agreement.

(b) This subsection does not apply to the final order of the shorelines hearings board on appeal under RCW 90.58.180(3).

(9) The presiding officer shall cause copies of the order to be served on each party and the agency.

Sec. 3. RCW 34.05.010 and 2011 c 336 s 762 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Adjudicative proceeding" means a proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the entry of an order by the agency. Adjudicative proceedings also include all cases of licensing and rate making in which an application for a license or rate change is denied except as limited by RCW 66.08.150, or a license is revoked, suspended, or modified, or in which the granting of an application is contested by a person having standing to contest under the law.

(2) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to the extent otherwise required by law and any local governmental entity that may request the appointment of an administrative law judge under chapter 42.41 RCW.

(3) "Agency action" means licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits.

Agency action does not include an agency decision regarding (a) contracting or procurement of goods, services, public works, and the purchase, lease, or acquisition by any other means, including eminent domain, of real estate, as well as all activities necessarily related to those functions, or (b) determinations as to the sufficiency of a showing of interest filed in support of a representation petition, or mediation or conciliation of labor disputes or arbitration of labor disputes under a collective bargaining law or similar statute, or (c) any sale, lease, contract, or other proprietary decision in the management of public lands or real property interests, or (d) the granting of a license, franchise, or permission for the use of trademarks, symbols, and similar property owned or controlled by the agency.

(4) "Agency head" means the individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the agency head.

(5) "Entry" of an order means the signing of the order by all persons who are to sign the order, as an official act indicating that the order is to be effective.

(6) "Filing" of a document that is required to be filed with an agency means delivery of the document to a place designated by the agency by rule for receipt of official documents, or in the absence of such designation, at the office of the agency head.

(7) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State

College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions."

(8) "Interpretive statement" means a written expression of the opinion of an agency, entitled an interpretive statement by the agency head or its designee, as to the meaning of a statute or other provision of law, of a court decision, or of an agency order.

(9)(a) "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by law, but does not include (i) a license required solely for revenue purposes, or (ii) a certification of an exclusive bargaining representative, or similar status, under a collective bargaining law or similar statute, or (iii) a license, franchise, or permission for use of trademarks, symbols, and similar property owned or controlled by the agency.

(b) "Licensing" includes the agency process respecting the issuance, denial, revocation, suspension, or modification of a license.

(10) "Mail" or "send," for purposes of any notice relating to rule making or policy or interpretive statements, means regular mail or electronic distribution, as provided in RCW 34.05.260. "Electronic distribution" or "electronically" means distribution by electronic mail or facsimile mail.

(11)(a) "Order," without further qualification, means a written statement of particular applicability that finally determines the legal rights, duties, privileges, immunities, or other legal interests of a specific person or persons.

(b) "Order of adoption" means the official written statement by which an agency adopts, amends, or repeals a rule.

(12) "Party to agency proceedings," or "party" in a context so indicating, means:

(a) A person to whom the agency action is specifically directed; or

(b) A person named as a party to the agency proceeding or allowed to intervene or participate as a party in the agency proceeding.

(13) "Party to judicial review or civil enforcement proceedings," or "party" in a context so indicating, means:

(a) A person who files a petition for a judicial review or civil enforcement proceeding; or

(b) A person named as a party in a judicial review or civil enforcement proceeding, or allowed to participate as a party in a judicial review or civil enforcement proceeding.

(14) "Person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character, and includes another agency.

(15) "Policy statement" means a written description of the current approach of an agency, entitled a policy statement by the agency head or its designee, to implementation of a statute or other provision of law, of a court decision, or of an agency order, including where appropriate the agency's current practice, procedure, or method of action based upon that approach.

(16) "Rule" means any agency order, directive, or regulation of general applicability (a) the violation of which subjects a person to a penalty or administrative sanction; (b) which establishes, alters, or revokes any procedure,

practice, or requirement relating to agency hearings; (c) which establishes, alters, or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law; (d) which establishes, alters, or revokes any qualifications or standards for the issuance, suspension, or revocation of licenses to pursue any commercial activity, trade, or profession; or (e) which establishes, alters, or revokes any mandatory standards for any product or material which must be met before distribution or sale. The term includes the amendment or repeal of a prior rule, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public, (ii) declaratory rulings issued pursuant to RCW 34.05.240, (iii) traffic restrictions for motor vehicles, bicyclists, and pedestrians established by the secretary of transportation or his or her designee where notice of such restrictions is given by official traffic control devices, or (iv) rules of institutions of higher education involving standards of admission, academic advancement, academic credit, graduation and the granting of degrees, employment relationships, or fiscal processes.

(17) "Rules review committee" or "committee" means the joint administrative rules review committee created pursuant to RCW 34.05.610 for the purpose of selectively reviewing existing and proposed rules of state agencies.

(18) "Rule making" means the process for formulation and adoption of a rule.

(19) "Service," except as otherwise provided in this chapter, means posting in the United States mail, properly addressed, postage prepaid, or personal or electronic service. Service by mail is complete upon deposit in the United States mail. Agencies may, by rule, authorize service by electronic ~~((telefacsimile))~~ transmission, ~~((where copies are mailed simultaneously,))~~ or by commercial parcel delivery company.

Passed by the House March 5, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 111

[Engrossed Substitute House Bill 1403]

STATE AGENCIES—PROVIDING INFORMATION

AN ACT Relating to promoting economic development by providing information to businesses; amending RCW 19.02.050 and 19.02.030; and adding a new section to chapter 19.02 RCW.

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

Sec. 1. RCW 19.02.050 and 2011 c 298 s 6 are each amended to read as follows:

~~((The legislature hereby directs the full participation by the following agencies))~~ Each of the following agencies must fully participate in the implementation of this chapter:

- (1) Department of agriculture;
- (2) Secretary of state;
- (3) Department of social and health services;

- (4) Department of revenue;
- (5) Department of fish and wildlife;
- (6) Employment security department;
- (7) Department of labor and industries;
- (8) ~~(Department of commerce;~~
- ~~(9))~~ Liquor control board;
- ~~((10))~~ (9) Department of health;
- ~~((11))~~ (10) Department of licensing;
- ~~((12) Parks and recreation commission;~~
- ~~(13))~~ (11) Utilities and transportation commission; ~~(and~~
- ~~(14))~~ (12) Board of accountancy;
- (13) Department of archaeology and historic preservation;
- (14) Department of early learning;
- (15) Department of ecology;
- (16) Department of financial institutions;
- (17) Department of transportation;
- (18) Gambling commission;
- (19) Horse racing commission;
- (20) Office of the insurance commissioner;
- (21) State lottery;
- (22) Student achievement council;
- (23) Washington state patrol;
- (24) Workforce training and education coordinating board; and
- (25) Other agencies as determined by the governor.

NEW SECTION. Sec. 2. A new section is added to chapter 19.02 RCW to read as follows:

(1)(a) Each agency required to fully participate in the implementation of this chapter under RCW 19.02.050 must provide the department with the name of the agency's coordinator for the purposes of implementing the requirements of this section. Using a format designated by the department, each agency must provide the department with the following information:

- (i) A listing of each business license issued by the agency;
- (ii) A description of the persons and specific activities for which the license is required;
- (iii) The time period for which the license is issued and any issuance, renewal, or reissuance requirements; and
- (iv) Other information the department determines necessary to implement this section, including links to the licensing information, application, and instructions on the agency's web site, if available.

(b) An agency that issues licenses in accordance with (i) national or federal mandates, requirements, or standards; or (ii) educational standards and an examination, may alternatively comply with this chapter by providing the department with a link to its licensing web site, summary information about the licensing requirements or standards in a format or formats designated by the department, and a designated agency contact.

(2) In addition to the requirements in subsection (1) of this section, each agency, by November 1st of each year, beginning November 1, 2013, must provide the department with certification on a form designated by the department that all business licensing information submitted by the agency is

complete and up-to-date. If an agency has not submitted all the business licensing information required under this section, the agency must instead submit a progress report and explanation to the department.

(3) The department must compile the information submitted by each agency, and submit an aggregate report to the governor and the economic development committees of the legislature by January 1st of each year, beginning January 1, 2014.

Sec. 3. RCW 19.02.030 and 2011 c 298 s 5 are each amended to read as follows:

(1) There is located within the department a business license center.

(2) The duties of the center include:

(a) Developing and administering a computerized one-stop master license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes, as well as issuing and renewing master licenses in an efficient manner;

(b) Providing a license information service detailing requirements to establish or engage in business in this state;

(c) Providing for staggered master license renewal dates;

(d) Identifying types of licenses appropriate for inclusion in the master license system;

(e) Recommending in reports to the governor and the legislature the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing or inspection requirements; and

(f) Incorporating licenses into the master license system. Both the regulatory agency legally authorized to issue the license and the department must agree that the license will be issued through the master license system in order for the license to be incorporated.

(3) The department may adopt under chapter 34.05 RCW such rules as may be necessary to effectuate the purposes of this chapter.

Passed by the House March 8, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 112

[House Bill 1404]

ALCOHOL POISONING—IMMUNITY FROM PROSECUTION

AN ACT Relating to prevention of alcohol poisoning deaths; amending RCW 66.44.270; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature intends to save lives by increasing timely medical attention to alcohol poisoning victims through the establishment of limited immunity from prosecution for people under the age of twenty-one years who seek medical assistance in alcohol poisoning situations. Dozens of alcohol poisonings occur each year in Washington state. Many of these incidents occur because people delay or forego seeking medical assistance for

fear of arrest or police involvement, which researchers continually identify as a significant barrier to the ideal response of calling 911.

Sec. 2. RCW 66.44.270 and 1998 c 4 s 1 are each amended to read as follows:

(1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

(2)(a) It is unlawful for any person under the age of twenty-one years to possess, consume, or otherwise acquire any liquor. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

(b) It is unlawful for a person under the age of twenty-one years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either: (i) Is in possession of or close proximity to a container that has or recently had liquor in it; or (ii) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. This subsection (2)(b) does not apply if the person is in the presence of a parent or guardian or has consumed or is consuming liquor under circumstances described in subsection (4) ~~((~~5~~))~~, (5), or (6) of this section.

(3) Subsections (1) and (2)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter 66.24 RCW.

(4) This section does not apply to liquor given for medicinal purposes to a person under the age of twenty-one years by a parent, guardian, physician, or dentist.

(5) This section does not apply to liquor given to a person under the age of twenty-one years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

(6)(a) A person under the age of twenty-one years acting in good faith who seeks medical assistance for someone experiencing alcohol poisoning shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the person seeking medical assistance.

(b) A person under the age of twenty-one years who experiences alcohol poisoning and is in need of medical assistance shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the poisoning and need for medical assistance.

(c) The protection in this subsection shall not be grounds for suppression of evidence in other criminal charges.

(7) Conviction or forfeiture of bail for a violation of this section by a person under the age of twenty-one years at the time of such conviction or forfeiture shall not be a disqualification of that person to acquire a license to sell or dispense any liquor after that person has attained the age of twenty-one years.

Passed by the House March 5, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 113

[Substitute House Bill 1420]

TRANSPORTATION IMPROVEMENT PROJECTS—PUBLIC CONTRACTS

AN ACT Relating to public contracts for transportation improvement projects; amending RCW 60.28.011, 39.08.030, 39.08.030, 39.12.040, 47.04.082, and 47.28.140; reenacting and amending RCW 39.08.010; adding a new section to chapter 47.28 RCW; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 60.28.011 and 2011 c 231 s 2 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, public improvement contracts (~~(shall)~~ must provide, and public bodies (~~(shall)~~ must reserve, a contract retainage not to exceed five percent of the moneys earned by the contractor as a trust fund for the protection and payment of: (i) The claims of any person arising under the contract; and (ii) the state with respect to taxes, increases, and penalties imposed pursuant to Titles 50, 51, and 82 RCW which may be due from such contractor.

(b) Public improvement contracts (~~(involving the construction, alteration, repair, or improvement of any highway, road, or street)~~) funded in whole or in part by federal transportation funds (~~(shall)~~ must rely upon the contract bond as referred to in chapter 39.08 RCW for the protection and payment of: (i) The claims of any person or persons arising under the contract to the extent such claims are provided for in RCW 39.08.010; and (ii) the state with respect to taxes (~~(imposed pursuant to)~~), increases, and penalties incurred on the public improvement project under Titles 50, 51, and 82 RCW which may be due. The contract bond must remain in full force and effect until, at a minimum, all claims filed in compliance with chapter 39.08 RCW are resolved.

(2) Every person performing labor or furnishing supplies toward the completion of a public improvement contract (~~(shall have)~~ has a lien upon moneys reserved by a public body under the provisions of a public improvement contract. However, the notice of the lien of the claimant (~~(shall)~~ must be given within forty-five days of completion of the contract work, and in the manner provided in RCW 39.08.030.

(3) The contractor at any time may request the contract retainage be reduced to one hundred percent of the value of the work remaining on the project.

(a) After completion of all contract work other than landscaping, the contractor may request that the public body release and pay in full the amounts retained during the performance of the contract, and sixty days thereafter the public body must release and pay in full the amounts retained (other than

continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of chapters 39.12 and 60.28 RCW.

(b) Sixty days after completion of all contract work the public body must release and pay in full the amounts retained during the performance of the contract subject to the provisions of chapters 39.12 and 60.28 RCW.

(4) The moneys reserved by a public body under the provisions of a public improvement contract, at the option of the contractor, ~~((shall))~~ must be:

(a) Retained in a fund by the public body;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association. Interest on moneys reserved by a public body under the provision of a public improvement contract ~~((shall))~~ must be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body. When the moneys reserved are placed in escrow, the public body ~~((shall))~~ must issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. This check ~~((shall))~~ must be converted into bonds and securities chosen by the contractor and approved by the public body and the bonds and securities ~~((shall))~~ must be held in escrow. Interest on the bonds and securities ~~((shall))~~ must be paid to the contractor as the interest accrues.

(5) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor ~~((shall))~~ must pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(6) A contractor may submit a bond for all or any portion of the contract retainage in a form acceptable to the public body and from a bonding company meeting standards established by the public body. The public body ~~((shall))~~ must accept a bond meeting these requirements unless the public body can demonstrate good cause for refusing to accept it. This bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body ~~((shall))~~ must release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor ~~((shall))~~ must accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor ~~((shall))~~ must then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(7) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in this case any amounts retained and accumulated under this

section (~~shall~~) must be held for a period of sixty days following the completion. In the event that the work is terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter are exclusive and (~~shall~~) supersede all provisions and regulations in conflict herewith.

(8) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, sixty days after completion of all contract work on each ferry vessel, the department must release and pay in full the amounts retained in connection with the construction of the vessel subject to the provisions of RCW 60.28.021 and chapter 39.12 RCW. However, the department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes (~~shall~~) may be certified or claims filed for work on the ferry after a period of sixty days following completion of the ferry; and if taxes are certified or claims filed, recovery may be had on the bond by the department of revenue, the employment security department, the department of labor and industries, and the material suppliers and laborers filing claims.

(9) Except as provided in subsection (1) of this section, reservation by a public body for any purpose from the moneys earned by a contractor by fulfilling its responsibilities under public improvement contracts is prohibited.

(10) Contracts on projects funded in whole or in part by farmers home administration and subject to farmers home administration regulations are not subject to subsections (1) through (9) of this section.

(11) This subsection applies only to a public body that has contracted for the construction of a facility using the general contractor/construction manager procedure, as defined under RCW 39.10.210. If the work performed by a subcontractor on the project has been completed within the first half of the time provided in the general contractor/construction manager contract for completing the work, the public body may accept the completion of the subcontract. The public body must give public notice of this acceptance. After a forty-five day period for giving notice of liens, and compliance with the retainage release procedures in RCW 60.28.021, the public body may release that portion of the retained funds associated with the subcontract. Claims against the retained funds after the forty-five day period are not valid.

(12) (~~Unless the context clearly requires otherwise,)~~ The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Contract retainage" means an amount reserved by a public body from the moneys earned by a person under a public improvement contract.

(b) "Person" means a person or persons, mechanic, subcontractor, or materialperson who performs labor or provides materials for a public improvement contract, and any other person who supplies the person with provisions or supplies for the carrying on of a public improvement contract.

(c) "Public body" means the state, or a county, city, town, district, board, or other public body.

(d) "Public improvement contract" means a contract for public improvements or work, other than for professional services, or a work order as defined in RCW 39.10.210.

Sec. 2. RCW 39.08.010 and 2007 c 218 s 88 and 2007 c 210 s 3 are each reenacted and amended to read as follows:

(1)(a) Whenever any board, council, commission, trustees, or body acting for the state or any county or municipality or any public body ~~((shall))~~ must contract with any person or corporation to do any work for the state, county, or municipality, or other public body, city, town, or district, such board, council, commission, trustees, or body ~~((shall))~~ must require the person or persons with whom such contract is made to make, execute, and deliver to such board, council, commission, trustees, or body a good and sufficient bond, with a surety company as surety, conditioned that such person or persons ~~((shall))~~ must:

(i) Faithfully perform all the provisions of such contract ~~((and))~~;

(ii) Pay all laborers, mechanics, and subcontractors and material suppliers, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work~~((, which))~~; and

(iii) Pay the taxes, increases, and penalties incurred on the project under Titles 50, 51, and 82 RCW on: (A) Projects referred to in RCW 60.28.011(1)(b); and/or (B) projects for which the bond is conditioned on the payment of such taxes, increases, and penalties.

(b) The bond, in cases of cities and towns, ~~((shall))~~ must be filed with the clerk or comptroller thereof, and any person or persons performing such services or furnishing material to any subcontractor ~~((shall have))~~ has the same right under the provisions of such bond as if such work, services, or material was furnished to the original contractor~~((: PROVIDED, HOWEVER, That))~~.

(2) The provisions of RCW 39.08.010 through 39.08.030 ~~((shall))~~ do not apply to any money loaned or advanced to any such contractor, subcontractor, or other person in the performance of any such work~~((: PROVIDED FURTHER, That))~~.

(3) On contracts of thirty-five thousand dollars or less, at the option of the contractor the respective public entity may, in lieu of the bond, retain fifty percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue, the employment security department, and the department of labor and industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later((: PROVIDED FURTHER, That)).

(4) For contracts of one hundred thousand dollars or less, the public entity may accept a full payment and performance bond from an individual surety or sureties~~((: AND PROVIDED FURTHER, That))~~.

(5) The surety must agree to be bound by the laws of the state of Washington and subjected to the jurisdiction of the state of Washington.

Sec. 3. RCW 39.08.030 and 2009 c 473 s 1 are each amended to read as follows:

(1)(a) The bond mentioned in RCW 39.08.010 ~~((shall))~~ must be in an amount equal to the full contract price agreed to be paid for such work or

improvement, except under subsections (2) and (3) of this section, and ~~((shall))~~ must be to the state of Washington, except as otherwise provided in RCW 39.08.100, and except in cases of cities and towns, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond ~~((shall run: PROVIDED,))~~ runs. ~~However, the same ((shall)) may~~ is not be for a less amount than twenty-five percent of the contract price of any such improvement, and may designate that the same ~~((shall be))~~ is payable to such city, and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 ~~((shall))~~ have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements, and the state has a right of action for the collection of taxes, increases, and penalties specified in RCW 39.08.010: PROVIDED, That, except for the state with respect to claims for taxes, increases, and penalties specified in RCW 39.08.010, such persons ~~((shall))~~ do not have any right of action on such bond for any sum whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or material supplier, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, ~~((shall))~~ must present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or material supplier, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of dollars (here insert the amount) against the bond taken from (here insert the name of the principal and surety or sureties upon such bond) for the work of (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed)

(b) Such notice ~~((shall))~~ must be signed by the person or corporation making the claim or giving the notice, and ~~((said))~~ the notice, after being presented and filed, ~~((shall be))~~ is a public record open to inspection by any person, and in any suit or action brought against such surety or sureties by any such person or corporation to recover for any of the items ~~((hereinbefore))~~ specified in this section, the claimant ~~((shall be))~~ is entitled to recover in addition to all other costs, attorney's fees in such sum as the court ~~((shall))~~ adjudges reasonable ~~(= PROVIDED, HOWEVER, That no)~~. However, attorney's fees ~~((shall be))~~ are not allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice ~~((hereinbefore mentioned:~~

~~PROVIDED FURTHER, That~~) as provided in this section. However, any city may avail itself of the provisions of RCW 39.08.010 through 39.08.030, notwithstanding any charter provisions in conflict ((herewith:—AND PROVIDED FURTHER, That)) with this section. Moreover, any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict ((herewith)) with this section. The thirty-day notice requirement under this subsection does not apply to claims made by the state for taxes, increases, and penalties specified in RCW 39.08.010.

(2) Under the job order contracting procedure described in RCW 39.10.420, bonds will be in an amount not less than the dollar value of all open work orders.

(3)(a) On highway construction contracts administered by the department of transportation with an estimated contract price of two hundred fifty million dollars or more, the department may authorize bonds in an amount less than the full contract price of the project. If a bond less than the full contract price is authorized by the department, the bond must be in the form of a performance bond and a separate payment bond. The department ((shall)) must fix the amount of the performance bond on a contract-by-contract basis to adequately protect one hundred percent of the state's exposure to loss. The amount of the performance bond must not be less than two hundred fifty million dollars. The payment bond must be in an amount fixed by the department but must not be less than the amount of the performance bond. The secretary of transportation must approve each performance bond and payment bond authorized to be less than the full contract price of a project. Before the secretary may approve any bond authorized to be less than the full contract price of a project, the office of financial management ((shall)) must review and approve the analysis supporting the amount of the bond set by the department to ensure that one hundred percent of the state's exposure to loss is adequately protected. All the requirements of this chapter apply respectively to the individual performance and payment bonds. The performance bond is solely for the protection of the department. The payment bond is solely for: (i) The protection of laborers, mechanics, subcontractors, and suppliers mentioned in RCW 39.08.010; and (ii) the state, with respect to the taxes specified in RCW 39.08.010.

(b) The department ((shall)) must develop risk assessment guidelines and gain approval of these guidelines from the office of financial management before implementing (a) of this subsection. The guidelines must include a clear process for how the department measures the state's exposure to loss and how the performance bond amount, determined under (a) of this subsection, adequately protects one hundred percent of the state's exposure to loss.

(c) The department ((shall)) must report to the house of representatives and senate transportation committees by December 1, 2012: Each project where the department authorized bonds that were less than the full contract price; the difference between the project amount and the bond requirements; the number of bidders on the project; and other information that documents the effects of the reduced bond amounts on the project.

(4) Where retainage is not withheld pursuant to RCW 60.28.011(1)(b), upon final acceptance of the public works project, the state, county, municipality, or other public body must within thirty days notify the department of revenue, the

employment security department, and the department of labor and industries of the completion of contracts over thirty-five thousand dollars.

Sec. 4. RCW 39.08.030 and 2007 c 218 s 89 are each amended to read as follows:

(1)(a) The bond mentioned in RCW 39.08.010 (~~shall~~) must be in an amount equal to the full contract price agreed to be paid for such work or improvement, except under subsection (2) of this section, and (~~shall~~) must be to the state of Washington, except as otherwise provided in RCW 39.08.100, and except in cases of cities and towns, in which cases such municipalities may by general ordinance fix and determine the amount of such bond and to whom such bond (~~shall run: PROVIDED,)~~ runs. However, the same (~~shall~~) may not be for a less amount than twenty-five percent of the contract price of any such improvement, and may designate that the same (~~shall~~) must be payable to such city, and not to the state of Washington, and all such persons mentioned in RCW 39.08.010 (~~shall~~) have a right of action in his, her, or their own name or names on such bond for work done by such laborers or mechanics, and for materials furnished or provisions and goods supplied and furnished in the prosecution of such work, or the making of such improvements, and the state has a right of action for the collection of taxes, increases, and penalties specified in RCW 39.08.010: PROVIDED, That, except for the state with respect to claims for taxes, increases, and penalties specified in RCW 39.08.010, such persons (~~shall~~) do not have any right of action on such bond for any sum whatever, unless within thirty days from and after the completion of the contract with an acceptance of the work by the affirmative action of the board, council, commission, trustees, officer, or body acting for the state, county or municipality, or other public body, city, town or district, the laborer, mechanic or subcontractor, or material supplier, or person claiming to have supplied materials, provisions or goods for the prosecution of such work, or the making of such improvement, (~~shall~~) must present to and file with such board, council, commission, trustees or body acting for the state, county or municipality, or other public body, city, town or district, a notice in writing in substance as follows:

To (here insert the name of the state, county or municipality or other public body, city, town or district):

Notice is hereby given that the undersigned (here insert the name of the laborer, mechanic or subcontractor, or material supplier, or person claiming to have furnished labor, materials or provisions for or upon such contract or work) has a claim in the sum of dollars (here insert the amount) against the bond taken from (here insert the name of the principal and surety or sureties upon such bond) for the work of (here insert a brief mention or description of the work concerning which said bond was taken).

(here to be signed)

(b) Such notice (~~shall~~) must be signed by the person or corporation making the claim or giving the notice, and (~~said~~) the notice, after being presented and filed, (~~shall be~~) is a public record open to inspection by any person, and in any

suit or action brought against such surety or sureties by any such person or corporation to recover for any of the items (~~(hereinbefore)~~) specified in this section, the claimant (~~(shall be)~~) is entitled to recover in addition to all other costs, attorney's fees in such sum as the court (~~(shall)~~) adjudges reasonable (~~(= PROVIDED, HOWEVER, That no)~~). However, attorney's fees (~~(shall be)~~) are not allowed in any suit or action brought or instituted before the expiration of thirty days following the date of filing of the notice (~~(hereinbefore mentioned: PROVIDED FURTHER, That)~~) as provided in this section. However, any city may avail itself of the provisions of RCW 39.08.010 through 39.08.030, notwithstanding any charter provisions in conflict (~~(herewith: AND PROVIDED FURTHER, That)~~) with this section. Moreover, any city or town may impose any other or further conditions and obligations in such bond as may be deemed necessary for its proper protection in the fulfillment of the terms of the contract secured thereby, and not in conflict (~~(herewith)~~) with this section. The thirty-day notice requirement under this subsection does not apply to claims made by the state for taxes, increases, and penalties specified in RCW 39.08.010.

(2) Under the job order contracting procedure described in RCW (~~(39.10.130)~~) 39.10.420, bonds will be in an amount not less than the dollar value of all open work orders.

(3) Where retainage is not withheld pursuant to RCW 60.28.011(1)(b), upon final acceptance of the public works project, the state, county, municipality, or other public body must within thirty days notify the department of revenue, the employment security department, and the department of labor and industries of the completion of contracts over thirty-five thousand dollars.

Sec. 5. RCW 39.12.040 and 2012 c 129 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it (~~(shall be)~~) is the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages (~~(shall)~~) must include:

~~((a))~~ (i) The contractor's registration certificate number; and

~~((b))~~ (ii) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

(b) Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to the disbursing officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate (~~(shall)~~) must state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it (~~(shall be)~~) is the duty of the officer charged with the disbursement of public funds, to require the contractor and each

and every subcontractor from the contractor or a subcontractor to submit to such officer an ((~~the~~)) affidavit of wages paid((~~the~~)) before the funds retained according to the provisions of RCW 60.28.011 are released to the contractor. On a public works project where no retainage is withheld pursuant to RCW 60.28.011(1)(b), the affidavit of wages paid must be submitted to the state, county, municipality, or other public body charged with the duty of disbursing or authorizing disbursement of public funds prior to final acceptance of the public works project. If a subcontractor performing work on a public works project fails to submit an ((~~the~~)) affidavit of wages paid((~~the~~)) form, the contractor or subcontractor with whom the subcontractor had a contractual relationship for the project may file the forms on behalf of the nonresponsive subcontractor. Affidavit forms may only be filed on behalf of a nonresponsive subcontractor who has ceased operations or failed to file as required by this section. ((~~Filings made on behalf of a subcontractor may not be accepted sooner than thirty-one days after the acceptance date of the public works project and~~)) The contractor filing the affidavit must accept responsibility for payment of prevailing wages unpaid by the subcontractor on the project pursuant to RCW 39.12.020 and 39.12.065. Intentionally filing a false affidavit on behalf of a subcontractor subjects the filer to the same penalties as are provided in RCW 39.12.050. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to the disbursing officer.

(2) As an alternate to the procedures provided for in subsection (1) of this section, for public works projects of two thousand five hundred dollars or less and for projects where the limited public works process under RCW 39.04.155(3) is followed:

(a) An awarding agency may authorize the contractor or subcontractor to submit the statement of intent to pay prevailing wages directly to the officer or person charged with the custody or disbursement of public funds in the awarding agency without approval by the industrial statistician of the department of labor and industries. The awarding agency ((~~shall~~)) must retain such statement of intent to pay prevailing wages for a period of not less than three years.

(b) Upon final acceptance of the public works project, the awarding agency ((~~shall~~)) must require the contractor or subcontractor to submit an affidavit of wages paid. Upon receipt of the affidavit of wages paid, the awarding agency may pay the contractor or subcontractor in full, including funds that would otherwise be retained according to the provisions of RCW 60.28.011. Within thirty days of receipt of the affidavit of wages paid, the awarding agency ((~~shall~~)) must submit the affidavit of wages paid to the industrial statistician of the department of labor and industries for approval.

(c) A statement of intent to pay prevailing wages and an affidavit of wages paid ((~~shall~~)) must be on forms approved by the department of labor and industries.

(d) In the event of a wage claim and a finding for the claimant by the department of labor and industries where the awarding agency has used the alternative process provided for in this subsection (2) ((~~of this section~~)), the awarding agency ((~~shall~~)) must pay the wages due directly to the claimant. If the contractor or subcontractor did not pay the wages stated in the affidavit of wages paid, the awarding agency may take action at law to seek reimbursement from the contractor or subcontractor of wages paid to the claimant, and may prohibit

the contractor or subcontractor from bidding on any public works contract of the awarding agency for up to one year.

(e) Nothing in this section (~~(shall)~~) may be interpreted to allow an awarding agency to subdivide any public works project of more than two thousand five hundred dollars for the purpose of circumventing the procedures required by subsection (1) of this section.

Sec. 6. RCW 47.04.082 and 1967 c 108 s 1 are each amended to read as follows:

As used in (~~this act the term~~) chapter 108, Laws of 1967, "urban public transportation system" (~~(shall)~~) means a system for the public transportation of persons or property by buses, streetcars, trains, electric trolley coaches, other public transit vehicles, or any combination thereof operating in or through predominantly urban areas and owned and operated by the state, any public agency, any city or county or any municipal corporation of the state, including all structures, facilities, vehicles and other property rights and interest forming a part of such a system.

Sec. 7. RCW 47.28.140 and 1991 c 322 s 29 are each amended to read as follows:

When in the opinion of the governing authorities representing the department and any public agency, instrumentality, municipal corporation, or political subdivision of the state of Washington, any highway, road, (~~(or)~~) street, or urban public transportation system will be benefited or improved by constructing, reconstructing, locating, relocating, laying out, repairing, surveying, altering, improving, or maintaining, or by the establishment adjacent to, under, upon, within, or above any portion of any such highway, road, (~~(or)~~) street (~~(or an)~~), or urban public transportation system, by either the department or any public agency, instrumentality, municipal corporation, or political subdivision of the state, and it is in the public interest to do so, the authorities may enter into cooperative agreements wherein either agrees to perform the work and furnish the materials necessary and pay the cost thereof, including necessary engineering assistance, which costs and expenses (~~(shall)~~) must be reimbursed by the party whose responsibility it was to do or perform the work or improvement in the first instance. The work may be done by either day labor or contract, and the cooperative agreement between the parties (~~(shall)~~) must provide for the method of reimbursement. In the case of some special benefit or improvement to a state highway derived from any project that assists in preventing or minimizing flood damages as defined in RCW 86.16.120 or from the construction of any public works project, including any urban public transportation system, the department may contribute to the cost thereof by making direct payment to the particular state department, agency, instrumentality, municipal corporation, or political subdivision on the basis of benefits received, but such payment (~~(shall)~~) may be made only after a cooperative agreement has been entered into for a specified amount or on an actual cost basis prior to the commencement of the particular public works project.

NEW SECTION. Sec. 8. A new section is added to chapter 47.28 RCW to read as follows:

When the department plans to administer a contract to engineer or construct a project; or oversee or perform work for another public agency, instrumentality, municipal corporation, or political subdivision; and the public agency, instrumentality, municipal corporation, or political subdivision plans to administer a contract to engineer or construct a project; or oversee or perform work, for the department, the department may waive application of its indirect costs by entering into a reciprocal agreement with the public agency, instrumentality, municipal corporation, or political subdivision in which each party agrees to waive indirect costs related to a project or work that will be performed by the party for the other party's benefit. The reciprocal agreement must specify the project or work to be performed by each party and may be for a maximum term of ten years, unless amended by the parties. Each party's obligation for reimbursement of indirect costs under RCW 47.28.140, 39.34.130, and 43.09.210 is deemed to be satisfied by the execution of a reciprocal agreement.

NEW SECTION, Sec. 9. Section 3 of this act expires June 30, 2016.

NEW SECTION, Sec. 10. Section 4 of this act takes effect June 30, 2016.

Passed by the House March 9, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 114

[Substitute House Bill 1435]

DEEDS OF TRUST—RECONVEYANCES

AN ACT Relating to clarifying agency relationships in reconveyances of deeds of trust; and amending RCW 61.24.110.

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

Sec. 1. RCW 61.24.110 and 1998 c 295 s 13 are each amended to read as follows:

(1) The trustee of record shall reconvey all or any part of the property encumbered by the deed of trust to the person entitled thereto on written request of the beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the beneficiary or the person entitled thereto.

(2) If the beneficiary fails to request reconveyance within the sixty-day period specified under RCW 61.16.030 and has received payment as specified by the beneficiary's demand statement, a title insurance company or title insurance agent as licensed and qualified under chapter 48.29 RCW, a licensed escrow agent as defined in RCW 18.44.011, or an attorney admitted to practice law in this state, who has paid the demand in full from escrow, upon receipt of notice of the beneficiary's failure to request reconveyance, may, as agent for the person entitled to receive reconveyance, in writing, submit proof of satisfaction and request the trustee of record to reconvey the deed of trust.

(3)(a) If the trustee of record is unable or unwilling to reconvey the deed of trust within one hundred twenty days following payment to the beneficiary as prescribed in the beneficiary's demand statement, a title insurance company or title insurance agent as licensed and qualified under chapter 48.29 RCW, a

licensed escrow agent as defined in RCW 18.44.011, or an attorney admitted to practice law in this state may record with each county auditor where the original deed of trust was recorded a notarized declaration of payment. The notarized declaration must: (i) Identify the deed of trust, including original grantor, beneficiary, trustee, loan number if available, and the auditor's recording number and recording date; (ii) state the amount, date, and name of the beneficiary and means of payment; (iii) include a declaration that the payment tendered was sufficient to meet the beneficiary's demand and that no written objections have been received; and (iv) be titled "declaration of payment".

(b) A copy of the recorded declaration of payment must be sent by certified mail to the last known address of the beneficiary and the trustee of record not later than two business days following the date of recording of the notarized declaration. The beneficiary or trustee of record has sixty days from the date of recording of the notarized declaration to record an objection. The objection must: (i) Include reference to the recording number of the declaration and original deed of trust, in the records where the notarized declaration was recorded; and (ii) be titled "objection to declaration of payment". If no objection is recorded within sixty days following recording of the notarized declaration, any lien of the deed of trust against the real property encumbered must cease to exist.

Passed by the House March 11, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 115

[House Bill 1447]

STATE HIGHWAYS—HEAVY HAUL CORRIDORS

AN ACT Relating to heavy haul corridors; amending RCW 46.44.0915; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 46.44.0915 and 2012 c 86 s 804 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, the department of transportation, with respect to state highways maintained within port district property, may, at the request of a port commission, make and enter into agreements with port districts and adjacent jurisdictions or agencies of the districts, for the purpose of identifying, managing, and maintaining short heavy haul industrial corridors within port district property for the movement of overweight sealed containers used in international trade.

(b) The department of transportation shall designate that portion of state route number 97 from the Canadian border to milepost 331.12 as a heavy haul industrial corridor for the movement of overweight vehicles to and from the Oroville railroad. The department may issue special permits to vehicles operating in the heavy haul industrial corridor to carry weight in excess of weight limits established in RCW 46.44.041, but not to exceed a gross vehicle weight of 139,994 pounds.

(2) Except as provided in subsection (1)(b) of this section, the department may issue special permits to vehicles operating in a heavy haul industrial corridor to carry weight in excess of weight limits established in RCW 46.44.041. However, the excess weight on a single axle, tandem axle, or any axle group must not exceed that allowed by RCW 46.44.091 (1) and (2), weight per tire must not exceed six hundred pounds per inch width of tire, and gross vehicle weight must not exceed one hundred five thousand five hundred pounds.

(3) The entity operating or hiring vehicles under subsection (1)(b) of this section or moving overweight sealed containers used in international trade must pay a fee for each special permit of one hundred dollars per month or one thousand dollars annually, beginning from the date of issue, for all movements under the special permit made on state highways within a heavy haul industrial corridor. Within a port district property, under no circumstances are the for hire carriers or rail customers responsible for the purchase or cost of the permits. All funds collected, except the amount retained by authorized agents of the department under RCW 46.44.096, must be forwarded to the state treasurer and deposited in the motor vehicle fund.

(4) For purposes of this section, an overweight sealed container used in international trade, including its contents, is considered nondivisible when transported within a heavy haul industrial corridor defined by the department.

(5) Any agreement entered into by the department as authorized under this section with a port district adjacent to Puget Sound and located within a county that has a population of more than seven hundred thousand, but less than one million, must limit the applicability of any established heavy haul corridor to that portion of state route no. 509 beginning at milepost 0.25 in the vicinity of East 'D' Street and ending at milepost ~~((3.88))~~ 5.7 in the vicinity of ~~((Taylor))~~ Norpoint Way Northeast. ~~((For the 2011-2013 fiscal biennium, the limit for any established heavy haul corridor established pursuant to this subsection (5) must be within that portion of state route number 509 beginning at milepost 0.25 in the vicinity of East 'D' Street and ending at milepost 5.7 in the vicinity of Norpoint Way Northeast.))~~

(6) The department of transportation may adopt reasonable rules to implement this section.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2013.

Passed by the House March 4, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 116

[Engrossed House Bill 2056]

MARIJUANA—HEMP—THC CONTENT

AN ACT Relating to correcting the definition of THC concentration as adopted by Initiative Measure No. 502 to avoid an implication that conversion, by combustion, of tetrahydrocannabinol acid into delta-9 tetrahydrocannabinol is not part of the THC content that differentiates marijuana from hemp; amending RCW 69.50.101; and declaring an emergency.

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

Sec. 1. RCW 69.50.101 and 2013 c 12 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(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 state board of pharmacy.

(d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or board rules.

(e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Immediate precursor" means a substance:

(1) that the state board of pharmacy 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.

(o) "Isomer" means an optical isomer, but in subsection (x)(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.

(p) "Lot" means a definite quantity of marijuana, 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.

(q) "Lot number" shall 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, useable marijuana, or marijuana-infused product.

(r) "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.

(s) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(t) "Marijuana processor" means a person licensed by the state liquor control board to process marijuana into useable marijuana and marijuana-infused products, package and label useable marijuana and marijuana-infused products for sale in retail outlets, and sell useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

(u) "Marijuana producer" means a person licensed by the state liquor control board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(v) "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

(w) "Marijuana retailer" means a person licensed by the state liquor control board to sell useable marijuana and marijuana-infused products in a retail outlet.

(x) "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).

(y) "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.

(z) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(aa) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(bb) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(cc) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(dd) "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.

(ee) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(ff) "Retail outlet" means a location licensed by the state liquor control board for the retail sale of useable marijuana and marijuana-infused products.

(gg) "Secretary" means the secretary of health or the secretary's designee.

(hh) "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.

(ii) "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.

(jj) "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.

(kk) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include marijuana-infused products.

(ll) "Electronic communication of prescription information" means the communication of prescription information by computer, or the transmission of an exact visual image of a prescription by facsimile, or other electronic means for original prescription information or prescription refill information for a Schedule III-V controlled substance between an authorized practitioner and a pharmacy or the transfer of prescription information for a controlled substance from one pharmacy to another pharmacy.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 26, 2013.

Passed by the Senate April 27, 2013.

Approved by the Governor May 1, 2013.

Filed in Office of Secretary of State May 1, 2013.

CHAPTER 117

[House Bill 1036]

SERVICE CONTRACTS

AN ACT Relating to service contracts; amending RCW 48.110.020; and adding a new section to chapter 48.110 RCW.

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

Sec. 1. RCW 48.110.020 and 2011 c 171 s 104 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Administrator" means the person who is responsible for the administration of the service contracts, the service contracts plan, or the protection product guarantees.

(2) "Commissioner" means the insurance commissioner of this state.

(3) "Consumer" means an individual who buys any tangible personal property that is primarily for personal, family, or household use.

(4) "Home heating fuel service contract" means a contract or agreement for a separately stated consideration for a specific duration to perform the repair, replacement, or maintenance of a home heating fuel supply system including the fuel tank and all visible pipes, caps, lines, and associated parts or the indemnification for repair, replacement, or maintenance for operational or structural failure due to a defect in materials or workmanship, or normal wear and tear.

(5) "Incidental costs" means expenses specified in the guarantee incurred by the protection product guarantee holder related to damages to other property caused by the failure of the protection product to perform as provided in the guarantee. "Incidental costs" may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. Incidental costs may be paid under the provisions of the protection product guarantee in either a fixed amount specified in the protection product guarantee or sales agreement, or by the use of a formula itemizing specific incidental costs incurred by the protection product guarantee holder to be paid.

(6) "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only.

(7) "Motor vehicle" means any vehicle subject to registration under chapter 46.16A RCW.

(8) "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal insurer, syndicate, or any similar entity or combination of entities acting in concert.

(9) "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

(10) "Protection product" means any product offered or sold with a guarantee to repair or replace another product or pay incidental costs upon the failure of the product to perform pursuant to the terms of the protection product guarantee.

(11) "Protection product guarantee" means a written agreement by a protection product guarantee provider to repair or replace another product or pay incidental costs upon the failure of the protection product to perform pursuant to the terms of the protection product guarantee.

(12) "Protection product guarantee holder" means a person who is the purchaser or permitted transferee of a protection product guarantee.

(13) "Protection product guarantee provider" means a person who is contractually obligated to the protection product guarantee holder under the terms of the protection product guarantee. Protection product guarantee provider does not include an authorized insurer providing a reimbursement insurance policy.

(14) "Protection product seller" means the person who sells the protection product to the consumer.

(15) "Provider fee" means the consideration paid by a consumer for a service contract.

(16) "Reimbursement insurance policy" means a policy of insurance that is issued to a service contract provider or a protection product guarantee provider to provide reimbursement to the service contract provider or the protection

product guarantee provider or to pay on behalf of the service contract provider or the protection product guarantee provider all contractual obligations incurred by the service contract provider or the protection product guarantee provider under the terms of the insured service contracts or protection product guarantees issued or sold by the service contract provider or the protection product guarantee provider.

(17)(a) "Service contract" means a contract or agreement entered into at any time for consideration over and above the lease or purchase price of the property for ((a)) any specific duration to perform the repair, replacement, or maintenance of property or the indemnification for repair, replacement, or maintenance for operational or structural failure due to a defect in materials or workmanship, or normal wear and tear. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling, with or without additional provision for incidental payment of indemnity under limited circumstances, including towing, rental, emergency road services, or other expenses relating to the failure of the product or of a component part thereof.

(b) "Service contract" also includes a contract or agreement sold for separately stated consideration for a specific duration to perform the repair or replacement of tires and/or wheels damaged as a result of coming into contact with road hazards including but not limited to potholes, rocks, wood debris, metal parts, glass, plastic, curbs, or composite scraps. However, a contract or agreement meeting the definition under this subsection (17)(b) in which the party obligated to perform is either a tire or wheel manufacturer or a motor vehicle manufacturer is exempt from the requirements of this chapter.

(18) "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.

(19) "Service contract provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract.

(20) "Service contract seller" means the person who sells the service contract to the consumer.

(21) "Warranty" means a warranty made solely by the manufacturer, importer, or seller of property or services without consideration; that is not negotiated or separated from the sale of the product and is incidental to the sale of the product; and that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

NEW SECTION. Sec. 2. A new section is added to chapter 48.110 RCW to read as follows:

This chapter does not prohibit a service contract provider from covering, in whole or in part, residential water, sewer, utilities, or similar systems with or without coverage of appliances or from sharing contract revenue with local governments or other third parties for endorsements and marketing services.

Passed by the House February 18, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 118

[Substitute House Bill 1115]

UNIFORM COMMERCIAL CODE—FUND TRANSFERS

AN ACT Relating to the Uniform Commercial code; amending RCW 62A.4A-108, 62A.4A-103, 62A.4A-104, 62A.4A-105, 62A.4A-106, 62A.4A-202, 62A.4A-203, 62A.4A-204, 62A.4A-205, 62A.4A-206, 62A.4A-207, 62A.4A-208, 62A.4A-209, 62A.4A-210, 62A.4A-211, 62A.4A-212, 62A.4A-301, 62A.4A-302, 62A.4A-303, 62A.4A-304, 62A.4A-305, 62A.4A-402, 62A.4A-403, 62A.4A-404, 62A.4A-405, 62A.4A-406, 62A.4A-501, 62A.4A-502, 62A.4A-503, 62A.4A-504, 62A.4A-506, 62A.4A-507, 62A.9A-502, and 62A.9A-503; creating a new section; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 62A.4A-108 and 1991 sp.s. c 21 s 4A-108 are each amended to read as follows:

RELATIONSHIP TO ELECTRONIC FUND TRANSFER ACT. (a) Except as provided in subsection (b) of this section, this Article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 (Title XX, P.L. 95-630, 92 Stat. 3728, 15 U.S.C. Sec. 1693 et seq.) (~~as amended from time to time~~).

(b) This Article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. Sec. 1693o-1), unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act (15 U.S.C. Sec. 1693a).

(c) In a funds transfer to which this Article applies, in the event of an inconsistency between an applicable provision of this Article and an applicable provision of the Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.

Sec. 2. RCW 62A.4A-103 and 1991 sp.s. c 21 s 4A-103 are each amended to read as follows:

~~((†))~~ (a) In this Article:

~~((#))~~ (1) "Payment order" means an instruction of a sender to a receiving bank, transmitted orally, electronically, or in writing, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

(i) The instruction does not state a condition (~~(#)~~) to payment to the beneficiary other than time of payment;

(ii) The receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and

(iii) The instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank.

~~((b))~~ (2) "Beneficiary" means the person to be paid by the beneficiary's bank.

~~((c))~~ (3) "Beneficiary's bank" means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or which otherwise is to make payment to the beneficiary if the order does not provide for payment to an account.

~~((d))~~ (4) "Receiving bank" means the bank to which the sender's instruction is addressed.

~~((e))~~ (5) "Sender" means the person giving the instruction to the receiving bank.

~~((2))~~ (b) If an instruction complying with subsection ~~((1)(a))~~ (a)(1) of this section is to make more than one payment to a beneficiary, the instruction is a separate payment order with respect to each payment.

~~((3))~~ (c) A payment order is issued when it is sent to the receiving bank.

Sec. 3. RCW 62A.4A-104 and 1991 sp.s. c 21 s 4A-104 are each amended to read as follows:

In this Article:

~~((1))~~ (a) "Funds transfer" means the series of transactions, beginning with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator's bank or an intermediary bank intended to carry out the originator's payment order. A funds transfer is completed by acceptance by the beneficiary's bank of a payment order for the benefit of the beneficiary of the originator's payment order.

~~((2))~~ (b) "Intermediary bank" means a receiving bank other than the originator's bank or the beneficiary's bank.

~~((3))~~ (c) "Originator" means the sender of the first payment order in a funds transfer.

~~((4))~~ (d) "Originator's bank" means ~~((a))~~ (i) the receiving bank to which the payment order of the originator is issued if the originator is not a bank, or ~~((b))~~ (ii) the originator if the originator is a bank.

Sec. 4. RCW 62A.4A-105 and 2012 c 214 s 1201 are each amended to read as follows:

~~((1))~~ (a) In this Article:

~~((a))~~ (1) "Authorized account" means a deposit account of a customer in a bank designated by the customer as a source of payment of payment orders issued by the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of ~~((the))~~ that account.

~~((b))~~ (2) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of this Article.

~~((c))~~ (3) "Customer" means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

~~((d))~~ (4) "Funds-transfer business day" of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and transmittal of payment orders and cancellations and amendments of payment orders.

~~((e))~~ (5) "Funds-transfer system" means a wire transfer network, automated clearing house, or other communication system of a clearing house or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed.

~~((f))~~ (6) [Reserved.]

~~((g))~~ (7) "Prove" with respect to a fact means to meet the burden of establishing the fact (RCW 62A.1-201(b)(8)).

~~((2))~~ (b) Other definitions applying to this Article and the sections in which they appear are:

"Acceptance"	RCW 62A.4A-209
"Beneficiary"	RCW 62A.4A-103
"Beneficiary's bank"	RCW 62A.4A-103
"Executed"	RCW 62A.4A-301
"Execution date"	RCW 62A.4A-301
"Funds transfer"	RCW 62A.4A-104
"Funds-transfer system rule"	RCW 62A.4A-501
"Intermediary bank"	RCW 62A.4A-104
"Originator"	RCW 62A.4A-104
"Originator's bank"	RCW 62A.4A-104
"Payment by beneficiary's bank to beneficiary"	RCW 62A.4A-405
"Payment by originator to beneficiary"	RCW 62A.4A-406
"Payment by sender to receiving bank"	RCW 62A.4A-403
"Payment date"	RCW 62A.4A-401
"Payment order"	RCW 62A.4A-103
"Receiving bank"	RCW 62A.4A-103
"Security procedure"	RCW 62A.4A-201
"Sender"	RCW 62A.4A-103

~~((3))~~ (c) The following definitions in Article 4 (RCW 62A.4-101 through 62A.4-504) apply to this Article:

"Clearing house"	RCW 62A.4-104
"Item"	RCW 62A.4-104
"Suspends payments"	RCW 62A.4-104

~~((4))~~ (d) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 5. RCW 62A.4A-106 and 2012 c 214 s 1202 are each amended to read as follows:

~~((+))~~ (a) The time of receipt of a payment order or communication canceling or amending a payment order is determined by the rules applicable to receipt of a notice stated in RCW 62A.1-202. A receiving bank may fix a cut-off time or times on a funds-transfer business day for the receipt and processing of payment orders and communications canceling or amending payment orders. Different cut-off times may apply to payment orders, cancellations, or amendments, or to different categories of payment orders, cancellations, or amendments. A cut-off time may apply to senders generally or different cut-off times may apply to different senders or categories of payment orders. If a payment order or communication canceling or amending a payment order is received after the close of a funds-transfer business day or after the appropriate cut-off time on a funds-transfer business day, the receiving bank may treat the payment order or communication as received at the opening of the next funds-transfer business day.

~~((2))~~ (b) If this Article refers to an execution date or payment date or states a day on which a receiving bank is required to take action, and the date or day does not fall on a funds-transfer business day, the next day that is a funds-transfer business day is treated as the date or day stated, unless the contrary is stated in this Article.

Sec. 6. RCW 62A.4A-202 and 1991 sp.s. c 21 s 4A-202 are each amended to read as follows:

~~((1))~~ (a) A payment order received by the receiving bank is the authorized order of the person identified as sender if that person authorized the order or is otherwise bound by it under the law of agency.

~~((2))~~ (b) If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if ~~((a))~~ (i) the security procedure is a commercially reasonable method of providing security against unauthorized payment orders, and ~~((b))~~ (ii) the bank proves that it accepted the payment order in good faith and in compliance with the security procedure and any written agreement or instruction of the customer restricting acceptance of payment orders issued in the name of the customer. The bank is not required to follow an instruction that violates a written agreement with the customer or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

~~((3))~~ (c) Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type, and frequency of payment orders normally issued by the customer to the bank, alternative security procedures offered to the customer, and security procedures in general use by customers and receiving banks similarly situated. A security procedure is deemed to be commercially reasonable if ~~((a))~~ (i) the security procedure was chosen ~~((b))~~ by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for that customer, and ~~((b))~~ (ii) the customer expressly agreed in writing to be bound by any payment order, whether or not authorized, issued in its name, and accepted by the bank in compliance with the security procedure chosen by the customer.

~~((4))~~ (d) The term "sender" in this Article includes the customer in whose name a payment order is issued if the order is the authorized order of the customer under subsection ~~((1))~~ (a) of this section, or it is effective as the order of the customer under subsection ~~((2))~~ (b) of this section.

~~((5))~~ (e) This section applies to amendments and cancellations of payment orders to the same extent it applies to payment orders.

~~((6))~~ (f) Except as provided in this section and RCW 62A.4A-203~~((1)(a))~~ (a)1, rights and obligations arising under this section or RCW 62A.4A-203 may not be varied by agreement.

Sec. 7. RCW 62A.4A-203 and 1991 sp.s. c 21 s 4A-203 are each amended to read as follows:

~~((+))~~ (a) If an accepted payment order is not, under RCW ~~((62A.4A-201(+)))~~ 62A.4A-202(a), an authorized order of a customer identified as sender, but is effective as an order of the customer pursuant to RCW 62A.4A-202~~((+))~~ (b), the following rules apply.

~~((+))~~ (1) By express written agreement, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

~~((+))~~ (2) The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act for the customer with respect to payment orders or the security procedure, or (ii) who obtained access to transmitting facilities of the customer or who obtained, from a source controlled by the customer and without authority of the receiving bank, information facilitating breach of the security procedure, regardless of how the information was obtained or whether the customer was at fault. Information includes any access device, computer software, or the like.

~~((+))~~ (b) This section applies to amendments of payment orders to the same extent it applies to payment orders.

Sec. 8. RCW 62A.4A-204 and 2012 c 214 s 1203 are each amended to read as follows:

~~((+))~~ (a) If a receiving bank accepts a payment order issued in the name of its customer as sender which is ~~((+))~~ (i) not authorized and not effective as the order of the customer under RCW 62A.4A-202, or ~~((+))~~ (ii) not enforceable, in whole or in part, against the customer under RCW 62A.4A-203, the bank shall refund any payment of the payment order received from the customer to the extent the bank is not entitled to enforce payment and shall pay interest on the refundable amount calculated from the date the bank received payment to the date of the refund. However, the customer is not entitled to interest from the bank on the amount to be refunded if the customer fails to exercise ordinary care to determine that the order was not authorized by the customer and to notify the bank of the relevant facts within a reasonable time not exceeding ninety days after the date the customer received notification from the bank that the order was accepted or that the customer's account was debited with respect to the order. The bank is not entitled to any recovery from the customer on account of a failure by the customer to give notification as stated in this section.

~~((+))~~ (b) Reasonable time under subsection ~~((+))~~ (a) of this section may be fixed by agreement as stated in RCW 62A.1-302(b), but the obligation of a receiving bank to refund payment as stated in subsection ~~((+))~~ (a) of this section may not otherwise be varied by agreement.

Sec. 9. RCW 62A.4A-205 and 1991 sp.s. c 21 s 4A-205 are each amended to read as follows:

~~((+))~~ (a) If an accepted payment order was transmitted pursuant to a security procedure for the detection of error and the payment order ~~((+))~~ (i) erroneously instructed payment to a beneficiary not intended by the sender, ~~((+))~~ (ii) erroneously instructed payment in an amount greater than the amount intended by the sender, or ~~((+))~~ (iii) was an erroneously transmitted duplicate of a payment order previously sent by the sender, the following rules apply:

~~((+))~~ (1) If the sender proves that the sender or a person acting on behalf of the sender pursuant to RCW 62A.4A-206 complied with the security procedure

and that the error would have been detected if the receiving bank had also complied, the sender is not obliged to pay the order to the extent stated in ~~((4))~~ paragraphs (2) and ~~((4))~~ (3) of this subsection.

~~((4))~~ (2) If the funds transfer is completed on the basis of an erroneous payment order described in ~~((4))~~ clause (i) or ~~((4))~~ (ii) of this subsection (a), the sender is not obliged to pay the order and the receiving bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

~~((4))~~ (3) If the funds transfer is completed on the basis of a payment order described in ~~((4))~~ clause (ii) of this subsection (a), the sender is not obliged to pay the order to the extent the amount received by the beneficiary is greater than the amount intended by the sender. In that case, the receiving bank is entitled to recover from the beneficiary the excess amount received to the extent allowed by the law governing mistake and restitution.

~~((2))~~ (b) ~~((4))~~ (i) the sender of an erroneous payment order described in subsection ~~((4))~~ (a) of this section is not obliged to pay all or part of the order, and ~~((4))~~ (ii) the sender receives notification from the receiving bank that the order was accepted by the bank or that the sender's account was debited with respect to the order, the sender has a duty to exercise ordinary care, on the basis of information available to the sender, to discover the error with respect to the order and to advise the bank of the relevant facts within a reasonable time, not exceeding ninety days, after the bank's notification was received by the sender. If the bank proves that the sender failed to perform that duty, the sender is liable to the bank for the loss the bank proves it incurred as a result of the failure, but the liability of the sender may not exceed the amount of the sender's order.

~~((3))~~ (c) This section applies to amendments to payment orders to the same extent it applies to payment orders.

Sec. 10. RCW 62A.4A-206 and 1991 sp.s. c 21 s 4A-206 are each amended to read as follows:

~~((4))~~ (a) If a payment order addressed to a receiving bank is transmitted to a funds-transfer system or other third-party communication system for transmittal to the bank, the system is deemed to be an agent of the sender for the purpose of transmitting the payment order to the bank. If there is a discrepancy between the terms of the payment order transmitted to the system and the terms of the payment order transmitted by the system to the bank, the terms of the payment order of the sender are those transmitted by the system. This section does not apply to a funds-transfer system of the federal reserve banks.

~~((2))~~ (b) This section applies to cancellations and amendments of payment orders to the same extent it applies to payment orders.

Sec. 11. RCW 62A.4A-207 and 1991 sp.s. c 21 s 4A-207 are each amended to read as follows:

~~((4))~~ (a) Subject to subsection ~~((2))~~ (b) of this section, if, in a payment order received by the beneficiary's bank, the name, bank account number, or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur.

~~((2))~~ (b) If a payment order received by the beneficiary's bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons, the following rules apply:

~~((a))~~ (1) Except as otherwise provided in subsection ~~((3))~~ (c) of this section, if the beneficiary's bank does not know that the name and number refer to different persons, it may rely on the number as the proper identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

~~((b))~~ (2) If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid by the beneficiary's bank if that person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

~~((3))~~ (c) If ~~((a))~~ (i) a payment order described in subsection ~~((2))~~ (b) of this section is accepted, ~~((b))~~ (ii) the originator's payment order described the beneficiary inconsistently by name and number, and ~~((e))~~ (iii) the beneficiary's bank pays the person identified by number as permitted by subsection ~~((2)(a))~~ (b)(1) of this section, the following rules apply:

~~((+))~~ (1) If the originator is a bank, the originator is obliged to pay its order.

~~((+))~~ (2) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a writing stating the information to which the notice relates.

~~((4))~~ (d) In a case governed by subsection ~~((2)(a))~~ (b)(1) of this section, if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

~~((a))~~ (1) If the originator is obliged to pay its payment order as stated in subsection ~~((3))~~ (c) of this section, the originator has the right to recover.

~~((b))~~ (2) If the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover.

Sec. 12. RCW 62A.4A-208 and 1991 sp.s. c 21 s 4A-208 are each amended to read as follows:

~~((+))~~ (a) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank only by an identifying number.

~~((a))~~ (1) The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

~~((b))~~ (2) The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

~~((2))~~ (b) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank both by name and an identifying number if the name and number identify different persons.

~~((a))~~ (1) If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

~~((b))~~ (2) If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by subsection ~~((2)(a))~~ (b)(1) of this section, as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment order was accepted, signed a writing stating the information to which the notice relates.

~~((e))~~ (3) Regardless of whether the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person.

~~((d))~~ (4) If the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation stated in RCW 62A.4A-302~~((1)(a))~~ (a)(1).

Sec. 13. RCW 62A.4A-209 and 1991 sp.s. c 21 s 4A-209 are each amended to read as follows:

~~((1))~~ (a) Subject to subsection ~~((4))~~ (d) of this section, a receiving bank other than the beneficiary's bank accepts a payment order when it executes the order.

~~((2))~~ (b) Subject to subsections ~~((3) and (4))~~ (c) and (d) of this section, a beneficiary's bank accepts a payment order at the earliest of the following times:

~~((a))~~ (1) When the bank (i) pays the beneficiary as stated in RCW 62A.4A-405 ~~((1) or (2))~~ (a) or (b) or (ii) notifies the beneficiary of receipt of the order or that the account of the beneficiary has been credited with respect to the order unless the notice indicates that the bank is rejecting the order or that funds with respect to the order may not be withdrawn or used until receipt of payment from the sender of the order;

~~((b))~~ (2) When the bank receives payment of the entire amount of the sender's order pursuant to RCW 62A.4A-403~~((1)(a) or (b))~~ (a) (1) or (2); or

~~((e))~~ (3) The opening of the next funds-transfer business day of the bank following the payment date of the order if, at that time, the amount of the sender's order is fully covered by a withdrawable credit balance in an authorized

account of the sender or the bank has otherwise received full payment from the sender, unless the order was rejected before that time or is rejected within (i) one hour after that time, or (ii) one hour after the opening of the next business day of the sender following the payment date if that time is later. If notice of rejection is received by the sender after the payment date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the payment date to the day the sender receives notice or learns that the order was not accepted, counting that day as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest payable is reduced accordingly.

~~((3))~~ (c) Acceptance of a payment order cannot occur before the order is received by the receiving bank. Acceptance does not occur under subsection ~~((2)(b) or (e))~~ (b) (2) or (3) of this section if the beneficiary of the payment order does not have an account with the receiving bank, the account has been closed, or the receiving bank is not permitted by law to receive credits for the beneficiary's account.

~~((4))~~ (d) A payment order issued to the originator's bank cannot be accepted until the payment date if the bank is the beneficiary's bank, or the execution date if the bank is not the beneficiary's bank. If the originator's bank executes the originator's payment order before the execution date or pays the beneficiary of the originator's payment order before the payment date and the payment order is subsequently canceled pursuant to RCW 62A.4A-211~~((2))~~ (b), the bank may recover from the beneficiary any payment received to the extent allowed by the law governing mistake and restitution.

Sec. 14. RCW 62A.4A-210 and 1991 sp.s. c 21 s 4A-210 are each amended to read as follows:

~~((1))~~ (a) A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally, electronically, or in writing. A notice of rejection need not use any particular words and is sufficient if it indicates that the receiving bank is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order, ~~((a))~~ (i) any means complying with the agreement is reasonable and ~~((b))~~ (ii) any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

~~((2))~~ (b) This subsection applies if a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order. If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is canceled pursuant to RCW 62A.4A-211~~((4))~~ (d) or the day the sender receives notice or learns that the order was not executed, counting the final day of the period as an elapsed day. If

the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

~~((3))~~ (c) If a receiving bank suspends payments, all unaccepted payment orders issued to it are deemed rejected at the time the bank suspends payments.

~~((4))~~ (d) Acceptance of a payment order precludes a later rejection of the order. Rejection of a payment order precludes a later acceptance of the order.

Sec. 15. RCW 62A.4A-211 and 1991 sp.s. c 21 s 4A-211 are each amended to read as follows:

~~((1))~~ (a) A communication of the sender of a payment order canceling or amending the order may be transmitted to the receiving bank orally, electronically, or in writing. If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

~~((2))~~ (b) Subject to subsection ~~((1))~~ (a) of this section, a communication by the sender canceling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

~~((3))~~ (c) After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds-transfer system rule allows cancellation or amendment without agreement of the bank.

~~((4))~~ (1) With respect to a payment order accepted by a receiving bank other than the beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

~~((5))~~ (2) With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order, or because of a mistake by a sender in the funds transfer which resulted in the issuance of a payment order (i) that is a duplicate of a payment order previously issued by the sender, (ii) that orders payment to a beneficiary not entitled to receive payment from the originator, or (iii) that orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is canceled or amended, the beneficiary's bank is entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

~~((4))~~ (d) An unaccepted payment order is canceled by operation of law at the close of the fifth funds-transfer business day of the receiving bank after the execution date or payment date of the order.

~~((5))~~ (e) A canceled payment order cannot be accepted. If an accepted payment order is canceled, the acceptance is nullified and no person has any right or obligation based on the acceptance. Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issue of a new payment order in the amended form at the same time.

~~((6))~~ (f) Unless otherwise provided in an agreement of the parties or in a funds-transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound

by a funds-transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorneys' fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

~~((7))~~ (g) A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of an adjudication of incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

~~((8))~~ (h) A funds-transfer system rule is not effective to the extent it conflicts with subsection ~~((3)(b))~~ (c)(2) of this section.

Sec. 16. RCW 62A.4A-212 and 1991 sp.s. c 21 s 4A-212 are each amended to read as follows:

If a receiving bank fails to accept a payment order that ~~((f))~~ it is obliged by express agreement to accept, the bank is liable for breach of the agreement to the extent provided in the agreement or in this Article, but does not otherwise have any duty to accept a payment order or, before acceptance, to take any action, or refrain from taking action, with respect to the order except as provided in this Article or by express agreement. Liability based on acceptance arises only when acceptance occurs as stated in RCW 62A.4A-209, and liability is limited to that provided in this Article. A receiving bank is not the agent of the sender or beneficiary of the payment order it accepts, or of any other party to the funds transfer, and the bank owes no duty to any party to the funds transfer except as provided in this Article or by express agreement.

Sec. 17. RCW 62A.4A-301 and 1991 sp.s. c 21 s 4A-301 are each amended to read as follows:

~~((1))~~ (a) A payment order is "executed" by the receiving bank when it issues a payment order intended to carry out the payment order received by the bank. A payment order received by the beneficiary's bank can be accepted but cannot be executed.

~~((2))~~ (b) "Execution date" of a payment order means the day on which the receiving bank may properly issue a payment order in execution of the sender's order. The execution date may be determined by instruction of the sender but cannot be earlier than the day the order is received and, unless otherwise determined, is the day the order is received. If the sender's instruction states a payment date, the execution date is the payment date or an earlier date on which execution is reasonably necessary to allow payment to the beneficiary on the payment date.

Sec. 18. RCW 62A.4A-302 and 1991 sp.s. c 21 s 4A-302 are each amended to read as follows:

~~((1))~~ (a) Except as provided in subsections ~~((2) through (4))~~ (b) through (d) of this section, if the receiving bank accepts a payment order pursuant to RCW 62A.4A-209~~((1))~~ (a), the bank has the following obligations in executing the order.

~~((a))~~ (1) The receiving bank is obliged to issue, on the execution date, a payment order complying with the sender's order and to follow the sender's instructions concerning (i) any intermediary bank or funds-transfer system to be used in carrying out the funds transfer, or (ii) the means by which payment

orders are to be transmitted in the funds transfer. If the originator's bank issues a payment order to an intermediary bank, the originator's bank is obliged to instruct the intermediary bank according to the instruction of the originator. An intermediary bank in the funds transfer is similarly bound by an instruction given to it by the sender of the payment order it accepts.

~~((b))~~ (2) If the sender's instruction states that the funds transfer is to be carried out telephonically or by wire transfer or otherwise indicates that the funds transfer is to be carried out by the most expeditious means, the receiving bank is obliged to transmit its payment order by the most expeditious available means, and to instruct any intermediary bank accordingly. If a sender's instruction states a payment date, the receiving bank is obliged to transmit its payment order at a time and by means reasonably necessary to allow payment to the beneficiary on the payment date or as soon thereafter as is feasible.

~~((2))~~ (b) Unless otherwise instructed, a receiving bank executing a payment order may ~~((a))~~ (i) use any funds-transfer system if use of that system is reasonable in the circumstances, and ~~((b))~~ (ii) issue a payment order to the beneficiary's bank or to an intermediary bank through which a payment order conforming to the sender's order can expeditiously be issued to the beneficiary's bank if the receiving bank exercises ordinary care in the selection of the intermediary bank. A receiving bank is not required to follow an instruction of the sender designating a funds-transfer system to be used in carrying out the funds transfer if the receiving bank, in good faith, determines that it is not feasible to follow the instruction or that following the instruction would unduly delay completion of the funds transfer.

~~((3))~~ (c) Unless subsection ~~((1)(b))~~ (a)(2) of this section applies or the receiving bank is otherwise instructed, the bank may execute a payment order by transmitting its payment order by first~~((-))~~ class mail or by any means reasonable in the circumstances. If the receiving bank is instructed to execute the sender's order by transmitting its payment order by a particular means, the receiving bank may issue its payment order by the means stated or by any means as expeditious as the means stated.

~~((4))~~ (d) Unless instructed by the sender, ~~((a))~~ (i) the receiving bank may not obtain payment of its charges for services and expenses in connection with the execution of the sender's order by issuing a payment order in an amount equal to the amount of the sender's order less the amount of the charges, and ~~((b))~~ (ii) may not instruct a subsequent receiving bank to obtain payment of its charges in the same manner.

Sec. 19. RCW 62A.4A-303 and 1991 sp.s. c 21 s 4A-303 are each amended to read as follows:

~~((1))~~ (a) A receiving bank that ~~((a))~~ (i) executes the payment order of the sender by issuing a payment order in an amount greater than the amount of the sender's order, or ~~((b))~~ (ii) issues a payment order in execution of the sender's order and then issues a duplicate order, is entitled to payment of the amount of the sender's order under RCW 62A.4A-402~~((3))~~ (c) if that subsection is otherwise satisfied. The bank is entitled to recover from the beneficiary of the erroneous order the excess payment received to the extent allowed by the law governing mistake and restitution.

~~((2))~~ (b) A receiving bank that executes the payment order of the sender by issuing a payment order in an amount less than the amount of the sender's order

is entitled to payment of the amount of the sender's order under RCW 62A.4A-402(~~((3))~~) (c) if (~~((a))~~) (i) that subsection is otherwise satisfied and (~~((b))~~) (ii) the bank corrects its mistake by issuing an additional payment order for the benefit of the beneficiary of the sender's order. If the error is not corrected, the issuer of the erroneous order is entitled to receive or retain payment from the sender of the order it accepted only to the extent of the amount of the erroneous order. This subsection does not apply if the receiving bank executes the sender's payment order by issuing a payment order in an amount less than the amount of the sender's order for the purpose of obtaining payment of its charges for services and expenses pursuant to instruction of the sender.

(~~((3))~~) (c) If a receiving bank executes the payment order of the sender by issuing a payment order to a beneficiary different from the beneficiary of the sender's order and the funds transfer is completed on the basis of that error, the sender of the payment order that was erroneously executed and all previous senders in the funds transfer are not obliged to pay the payment orders they issued. The issuer of the erroneous order is entitled to recover from the beneficiary of the order the payment received to the extent allowed by the law governing mistake and restitution.

Sec. 20. RCW 62A.4A-304 and 1991 sp.s. c 21 s 4A-304 are each amended to read as follows:

If the sender of a payment order that is erroneously executed as stated in RCW 62A.4A-303 receives notification from the receiving bank that the order was executed or that the sender's account was debited with respect to the order, the sender has a duty to exercise ordinary care to determine, on the basis of information available to the sender, that the order was erroneously executed and to notify the bank of the relevant facts within a reasonable time not exceeding ninety days after the notification from the bank was received by the sender. If the sender fails to perform that duty, the bank is not obliged to pay interest on any amount refundable to the sender under RCW 62A.4A-402(~~((4))~~) (d) for the period before the bank learns of the execution error. The bank is not entitled to any recovery from the sender on account of a failure by the sender to perform the duty stated in this section.

Sec. 21. RCW 62A.4A-305 and 1991 sp.s. c 21 s 4A-305 are each amended to read as follows:

(~~((4))~~) (a) If a funds transfer is completed but execution of a payment order by the receiving bank in breach of RCW 62A.4A-302 results in delay in payment to the beneficiary, the bank is obliged to pay interest to either the originator or the beneficiary of the funds transfer for the period of delay caused by the improper execution. Except as provided in subsection (~~((3))~~) (c) of this section, additional damages are not recoverable.

(~~((2))~~) (b) If execution of a payment order by a receiving bank in breach of RCW 62A.4A-302 results in (~~((a))~~) (i) noncompletion of the funds transfer, (~~((b))~~) (ii) failure to use an intermediary bank designated by the originator, or (~~((c))~~) (iii) issuance of a payment order that does not comply with the terms of the payment order of the originator, the bank is liable to the originator for its expenses in the funds transfer and for incidental expenses and interest losses, to the extent not covered by subsection (~~((4))~~) (a) of this section, resulting from the

improper execution. Except as provided in subsection ~~((3))~~ (c) of this section, additional damages are not recoverable.

~~((3))~~ (c) In addition to the amounts payable under subsections ~~((1) and (2))~~ (a) and (b) of this section, damages, including consequential damages, are recoverable to the extent provided in an express written agreement of the receiving bank.

~~((4))~~ (d) If a receiving bank fails to execute a payment order it was obliged by express agreement to execute, the receiving bank is liable to the sender for its expenses in the transaction and for incidental expenses and interest losses resulting from the failure to execute. Additional damages, including consequential damages, are recoverable to the extent provided in an express written agreement of the receiving bank, but are not otherwise recoverable.

~~((5))~~ (e) Reasonable attorneys' fees are recoverable if demand for compensation under subsection ~~((1) or (2))~~ (a) or (b) of this section is made and refused before an action is brought on the claim. If a claim is made for breach of an agreement under subsection ~~((4))~~ (d) of this section and the agreement does not provide for damages, reasonable attorneys' fees are recoverable if demand for compensation under subsection ~~((4))~~ (d) of this section is made and refused before an action is brought on the claim.

~~((6))~~ (f) Except as stated in this section, the liability of a receiving bank under subsections ~~((1) and (2))~~ (a) and (b) of this section may not be varied by agreement.

Sec. 22. RCW 62A.4A-402 and 1991 sp.s. c 21 s 4A-402 are each amended to read as follows:

~~((1))~~ (a) This section is subject to RCW 62A.4A-205 and 62A.4A-207.

~~((2))~~ (b) With respect to a payment order issued to the beneficiary's bank, acceptance of the order by the bank obliges the sender to pay the bank the amount of the order, but payment is not due until the payment date of the order.

~~((3))~~ (c) This subsection is subject to subsection ~~((5))~~ (e) of this section and to RCW 62A.4A-303. With respect to a payment order issued to a receiving bank other than the beneficiary's bank, acceptance of the order by the receiving bank obliges the sender to pay the bank the amount of the sender's order. Payment by the sender is not due until the execution date of the sender's order. The obligation of that sender to pay its payment order is excused if the funds transfer is not completed by acceptance by the beneficiary's bank of a payment order instructing payment to the beneficiary of that sender's payment order.

~~((4))~~ (d) If the sender of a payment order pays the order and was not obliged to pay all or part of the amount paid, the bank receiving payment is obliged to refund payment to the extent the sender was not obliged to pay. Except as provided in RCW 62A.4A-204 and 62A.4A-304, interest is payable on the refundable amount from the date of payment.

~~((5))~~ (e) If a funds transfer is not completed as stated in ~~((this subsection))~~ (c) of this section and an intermediary bank is obliged to refund payment as stated in subsection ~~((4))~~ (d) of this section but is unable to do so because not permitted by applicable law or because the bank suspends payments, a sender in the funds transfer that executed a payment order in compliance with an instruction, as stated in RCW 62A.4A-302~~((1)(a))~~ (a)(1), to route the funds transfer through that intermediary bank is entitled to receive or retain payment from the sender of the payment order that it accepted. The first sender in the

funds transfer that issued an instruction requiring routing through that intermediary bank is subrogated to the right of the bank that paid the intermediary bank to refund as stated in subsection ~~((4))~~ (d) of this section.

~~((6))~~ (f) The right of the sender of a payment order to be excused from the obligation to pay the order as stated in subsection ~~((3))~~ (c) of this section or to receive refund under subsection ~~((4))~~ (d) of this section may not be varied by agreement.

Sec. 23. RCW 62A.4A-403 and 1991 sp.s. c 21 s 4A-403 are each amended to read as follows:

~~((1))~~ (a) Payment of the sender's obligation under RCW 62A.4A-402 to pay the receiving bank occurs as follows:

~~((b))~~ (1) If the sender is a bank, payment occurs when the receiving bank receives final settlement of the obligation through a federal reserve bank or through a funds-transfer system.

~~((b))~~ (2) If the sender is a bank and the sender (i) credited an account of the receiving bank with the sender, or (ii) caused an account of the receiving bank in another bank to be credited, payment occurs when the credit is withdrawn or, if not withdrawn, at midnight of the day on which the credit is withdrawable and the receiving bank learns of that fact.

~~((e))~~ (3) If the receiving bank debits an account of the sender with the receiving bank, payment occurs when the debit is made to the extent the debit is covered by a withdrawable credit balance in the account.

~~((2))~~ (b) If the sender and receiving bank are members of a funds-transfer system that nets obligations multilaterally among participants, the receiving bank receives final settlement when settlement is complete in accordance with the rules of the system. The obligation of the sender to pay the amount of a payment order transmitted through the funds-transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against the sender's obligation the right of the sender to receive payment from the receiving bank of the amount of any other payment order transmitted to the sender by the receiving bank through the funds-transfer system. The aggregate balance of obligations owed by each sender to each receiving bank in the funds-transfer system may be satisfied, to the extent permitted by the rules of the system, by setting off and applying against that balance the aggregate balance of obligations owed to the sender by other members of the system. The aggregate balance is determined after the right of setoff stated in the second sentence of this subsection has been exercised.

~~((3))~~ (c) If two banks transmit payment orders to each other under an agreement that settlement of the obligations of each bank to the other under RCW 62A.4A-402 will be made at the end of the day or other period, the total amount owed with respect to all orders transmitted by one bank shall be set off against the total amount owed with respect to all orders transmitted by the other bank. To the extent of the setoff, each bank has made payment to the other.

~~((4))~~ (d) In a case not covered by subsection ~~((1))~~ (a) of this section, the time when payment of the sender's obligation under RCW 62A.4A-402 ~~((2) or (3))~~ (b) or (c) occurs is governed by applicable principles of law that determine when an obligation is satisfied.

Sec. 24. RCW 62A.4A-404 and 1991 sp.s. c 21 s 4A-404 are each amended to read as follows:

~~((1))~~ (a) Subject to RCW 62A.4A-211~~((5))~~ (e), 62A.4A-405~~((4))~~ (d), and 62A.4A-405~~((5))~~ (e), if a beneficiary's bank accepts a payment order, the bank is obliged to pay the amount of the order to the beneficiary of the order. Payment is due on the payment date of the order, but if acceptance occurs on the payment date after the close of the funds-transfer business day of the bank, payment is due on the next funds-transfer business day. If the bank refuses to pay after demand by the beneficiary and receipt of notice of particular circumstances that will give rise to consequential damages as a result of nonpayment, the beneficiary may recover damages resulting from the refusal to pay to the extent the bank had notice of the damages, unless the bank proves that it did not pay because of a reasonable doubt concerning the right of the beneficiary to payment.

~~((2))~~ (b) If a payment order accepted by the beneficiary's bank instructs payment to an account of the beneficiary, the bank is obliged to notify the beneficiary of receipt of the order before midnight of the next funds-transfer business day following the payment date. If the payment order does not instruct payment to an account of the beneficiary, the bank is required to notify the beneficiary only if notice is required by the order. Notice may be given by first-class mail or any other means reasonable in the circumstances. If the bank fails to give the required notice, the bank is obliged to pay interest to the beneficiary on the amount of the payment order from the day notice should have been given until the day the beneficiary learned of receipt of the payment order by the bank. No other damages are recoverable. Reasonable attorneys' fees are also recoverable if demand for interest is made and refused before an action is brought on the claim.

~~((3))~~ (c) The right of a beneficiary to receive payment and damages as stated in subsection (a) ~~((subsection (1) of this section))~~ of this section may not be varied by agreement or a funds-transfer system rule. The right of a beneficiary to be notified as stated in subsection ~~((2))~~ (b) of this section may be varied by agreement of the beneficiary or by a funds-transfer system rule if the beneficiary is notified of the rule before initiation of the funds transfer.

Sec. 25. RCW 62A.4A-405 and 1991 sp.s. c 21 s 4A-405 are each amended to read as follows:

~~((1))~~ (a) If the beneficiary's bank credits an account of the beneficiary of a payment order, payment of the bank's obligation under RCW 62A.4A-404~~((1))~~ (a) occurs when and to the extent ~~((1))~~ (i) the beneficiary is notified of the right to withdraw the credit, ~~((2))~~ (ii) the bank lawfully applies the credit to a debt of the beneficiary, or ~~((3))~~ (iii) funds with respect to the order are otherwise made available to the beneficiary by the bank.

~~((2))~~ (b) If the beneficiary's bank does not credit an account of the beneficiary of a payment order, the time when payment of the bank's obligation under RCW 62A.4A-404~~((1))~~ (a) occurs is governed by principles of law that determine when an obligation is satisfied.

~~((3))~~ (c) Except as stated in subsections ~~((4) and (5))~~ (d) and (e) of this ~~((act - section))~~ section, if the beneficiary's bank pays the beneficiary of a payment order under a condition to payment or agreement of the beneficiary giving the bank the right to recover payment from the beneficiary if the bank

does not receive payment of the order, the condition to payment or agreement is not enforceable.

~~((4))~~ (d) A funds-transfer system rule may provide that payments made to beneficiaries of funds transfers made through the system are provisional until receipt of payment by the beneficiary's bank of the payment order it accepted. A beneficiary's bank that makes a payment that is provisional under the rule is entitled to refund from the beneficiary if ~~((a))~~ (i) the rule requires that both the beneficiary and the originator be given notice of the provisional nature of the payment before the funds transfer is initiated, ~~((b))~~ (ii) the beneficiary, the beneficiary's bank and the originator's bank agreed to be bound by the rule, and ~~((c))~~ (iii) the beneficiary's bank did not receive payment of the payment order that it accepted. If the beneficiary is obliged to refund payment to the beneficiary's bank, acceptance of the payment order by the beneficiary's bank is nullified and no payment by the originator of the funds transfer to the beneficiary occurs under RCW 62A.4A-406.

~~((5))~~ (e) This subsection applies to a funds transfer that includes a payment order transmitted over a funds-transfer system that ~~((a))~~ (i) nets obligations multilaterally among participants, and ~~((b))~~ (ii) has in effect a loss-sharing agreement among participants for the purpose of providing funds necessary to complete settlement of the obligations of one or more participants that do not meet their settlement obligations. If the beneficiary's bank in the funds transfer accepts a payment order and the system fails to complete settlement pursuant to its rules with respect to any payment order in the funds transfer, (i) the acceptance by the beneficiary's bank is nullified and no person has any right or obligation based on the acceptance, (ii) the beneficiary's bank is entitled to recover payment from the beneficiary, (iii) no payment by the originator to the beneficiary occurs under RCW 62A.4A-406, and (iv) subject to RCW 62A.4A-402~~((5))~~ (e), ~~((each sender in the funds transfer is excused from its obligation to pay its payment order under RCW 62A.4A-402(5).))~~ each sender in the funds transfer is excused from its obligation to pay its payment order under RCW 62A.4A-402~~((3))~~ (c) because the funds transfer has not been completed.

Sec. 26. RCW 62A.4A-406 and 1991 sp.s. c 21 s 4A-406 are each amended to read as follows:

~~((1))~~ (a) Subject to RCW 62A.4A-211~~((5))~~ (e), 62A.4A-405~~((4))~~ (d), and 62A.4A-405~~((5))~~ (e), the originator of a funds transfer pays the beneficiary of the originator's payment order ~~((a))~~ (i) at the time a payment order for the benefit of the beneficiary is accepted by the beneficiary's bank in the funds transfer and ~~((b))~~ (ii) in an amount equal to the amount of the order accepted by the beneficiary's bank, but not more than the amount of the originator's order.

~~((2))~~ (b) If payment under subsection ~~((1))~~ (a) of this section is made to satisfy an obligation, the obligation is discharged to the same extent discharge would result from payment to the beneficiary of the same amount in money, unless ~~((a))~~ (i) the payment under subsection ~~((1))~~ (a) of this section was made by a means prohibited by the contract of the beneficiary with respect to the obligation, ~~((b))~~ (ii) the beneficiary, within a reasonable time after receiving notice of receipt of the order by the beneficiary's bank, notified the originator of the beneficiary's refusal of the payment, ~~((c))~~ (iii) funds with respect to the order were not withdrawn by the beneficiary or applied to a debt of the beneficiary, and ~~((d))~~ (iv) the beneficiary would suffer a loss that could

reasonably have been avoided if payment had been made by a means complying with the contract. If payment by the originator does not result in discharge under this section, the originator is subrogated to the rights of the beneficiary to receive payment from the beneficiary's bank under RCW 62A.4A-404~~((1))~~ (a).

~~((3))~~ (c) For the purpose of determining whether discharge of an obligation occurs under subsection ~~((2))~~ (b) of this section, if the beneficiary's bank accepts a payment order in an amount equal to the amount of the originator's payment order less charges of one or more receiving banks in the funds transfer, payment to the beneficiary is deemed to be in the amount of the originator's order unless upon demand by the beneficiary the originator does not pay the beneficiary the amount of the deducted charges.

~~((4))~~ (d) Rights of the originator or of the beneficiary of a funds transfer under this section may be varied only by agreement of the originator and the beneficiary.

Sec. 27. RCW 62A.4A-501 and 1991 sp.s. c 21 s 4A-501 are each amended to read as follows:

~~((1))~~ (a) Except as otherwise provided in this Article, the rights and obligations of a party to a funds transfer may be varied by agreement of the affected party.

~~((2))~~ (b) "Funds-transfer system rule" means a rule of an association of banks ~~((a))~~ (i) governing transmission of payment orders by means of a funds-transfer system of the association or rights and obligations with respect to those orders, or ~~((b))~~ (ii) to the extent the rule governs rights and obligations between banks that are parties to a funds transfer in which a federal reserve bank, acting as an intermediary bank, sends a payment order to the beneficiary's bank. Except as otherwise provided in this Article, a funds-transfer system rule governing rights and obligations between participating banks using the system may be effective even if the rule conflicts with ~~(the)~~ this Article and indirectly affects another party to the funds transfer who does not consent to the rule. A funds-transfer system rule may also govern rights and obligations of parties other than participating banks using the system to the extent stated in RCW 62A.4A-404~~((3))~~ (c), 62A.4A-405~~((4))~~ (d), and 62A.4A-507~~((3))~~ (c).

Sec. 28. RCW 62A.4A-502 and 1991 sp.s. c 21 s 4A-502 are each amended to read as follows:

~~((1))~~ (a) As used in this section, "creditor process" means levy, attachment, garnishment, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant with respect to an account.

~~((2))~~ (b) This subsection applies to creditor process with respect to an authorized account of the sender of a payment order if the creditor process is served on the receiving bank. For the purpose of determining rights with respect to the creditor process, if the receiving bank accepts the payment order the balance in the authorized account is deemed to be reduced by the amount of the payment order to the extent the bank did not otherwise receive payment of the order, unless the creditor process is served at ~~(the)~~ a time and in a manner affording the bank a reasonable opportunity to act on it before the bank accepts the payment order.

~~((3))~~ (c) If a beneficiary's bank has received a payment order for payment to the beneficiary's account in the bank, the following rules apply:

~~((a))~~ (1) The bank may credit the beneficiary's account. The amount credited may be set off against an obligation owed by the beneficiary to the bank or may be applied to satisfy creditor process served on the bank with respect to the account.

~~((b))~~ (2) The bank may credit the beneficiary's account and allow withdrawal of the amount credited unless creditor process with respect to the account is served at ~~((the))~~ a time and in a manner affording the bank a reasonable opportunity to act to prevent withdrawal.

~~((c))~~ (3) If creditor process with respect to the beneficiary's account has been served and the bank has had a reasonable opportunity to act on it, the bank may not reject the payment order except for a reason unrelated to the service of process.

~~((d))~~ (d) Creditor process with respect to a payment by the originator to the beneficiary pursuant to a funds transfer may be served only on the beneficiary's bank with respect to the debt owed by that bank to the beneficiary. Any other bank served with the creditor process is not obliged to act with respect to the process.

Sec. 29. RCW 62A.4A-503 and 1991 sp.s. c 21 s 4A-503 are each amended to read as follows:

For proper cause and in compliance with applicable law, a court may restrain ~~((+))~~ (i) a person from issuing a payment order to initiate a funds transfer, ~~((2))~~ (ii) an originator's bank from executing the payment order of the originator, or ~~((3))~~ (iii) the beneficiary's bank from releasing funds to the beneficiary or the beneficiary from withdrawing the funds. A court may not otherwise restrain a person from issuing a payment order, paying or receiving payment of a payment order, or otherwise acting with respect to a funds transfer.

Sec. 30. RCW 62A.4A-504 and 1991 sp.s. c 21 s 4A-504 are each amended to read as follows:

~~((+))~~ (a) If a receiving bank has received more than one payment order of the sender or one or more payment orders and other items that are payable from the sender's account, the bank may charge the sender's account with respect to the various orders and items in any sequence.

~~((2))~~ (b) In determining whether a credit to an account has been withdrawn by the holder of the account or applied to a debt of the holder of the account, credits first made to the account are first withdrawn or applied.

Sec. 31. RCW 62A.4A-506 and 1991 sp.s. c 21 s 4A-506 are each amended to read as follows:

~~((+))~~ (a) If, under this Article, a receiving bank is obliged to pay interest with respect to a payment order issued to the bank, the amount payable may be determined ~~((a))~~ (i) by agreement of the sender and receiving bank, or ~~((b))~~ (ii) by a funds-transfer system rule if the payment order is transmitted through a funds-transfer system.

~~((2))~~ (b) If the amount of interest is not determined by an agreement or rule as stated in subsection ~~((+))~~ (a) of this section, the amount is calculated by multiplying the applicable federal funds rate by the amount on which interest is payable, and then multiplying the product by the number of days for which interest is payable. The applicable federal funds rate is the average of the federal funds rates published by the federal reserve bank of New York for each of the

days for which interest is payable divided by three hundred sixty. The federal funds rate for any day on which a published rate is not available is the same as the published rate for the next preceding day for which there is a published rate. If a receiving bank that accepted a payment order is required to refund payment to the sender of the order because the funds transfer was not completed, but the failure to complete was not due to any fault by the bank, the interest payable is reduced by a percentage equal to the reserve requirement on deposits of the receiving bank.

Sec. 32. RCW 62A.4A-507 and 1991 sp.s. c 21 s 4A-507 are each amended to read as follows:

~~((4))~~ (a) The following rules apply unless the affected parties otherwise agree or subsection ~~((3))~~ (c) of this section applies~~((;))~~:

~~((a))~~ (1) The rights and obligations between the sender of a payment order and the receiving bank are governed by the law of the jurisdiction in which the receiving bank is located.

~~((b))~~ (2) The rights and obligations between the beneficiary's bank and the beneficiary are governed by the law of the jurisdiction in which the beneficiary's bank is located.

~~((c))~~ (3) The issue of when payment is made pursuant to a funds transfer by the originator to the beneficiary is governed by the law of the jurisdiction in which the beneficiary's bank is located.

~~((2))~~ (b) If the parties described in each paragraph of subsection ~~((4))~~ (a) of this section have made an agreement selecting the law of a particular jurisdiction to govern rights and obligations between each other, the law of that jurisdiction governs those rights and obligations, whether or not the payment order or the funds transfer bears a reasonable relation to that jurisdiction.

~~((3))~~ (c) A funds-transfer system rule may select the law of a particular jurisdiction to govern ~~((a))~~ (i) rights and obligations between participating banks with respect to payment orders transmitted or processed through the system, or ~~((b))~~ (ii) the rights and obligations of some or all parties to a funds transfer any part of which is carried out by means of the system. A choice of law made pursuant to ~~((a))~~ clause (i) of this subsection is binding on participating banks. A choice of law made pursuant to ~~((b))~~ clause (ii) of this subsection is binding on the originator, other sender, or a receiving bank having notice that the funds-transfer system might be used in the funds transfer and of the choice of law by the system when the originator, other sender, or receiving bank issued or accepted a payment order. The beneficiary of a funds transfer is bound by the choice of law if, when the funds transfer is initiated, the beneficiary has notice that the funds-transfer system might be used in the funds transfer and of the choice of law by the system. The law of a jurisdiction selected pursuant to this subsection may govern, whether or not that law bears a reasonable relation to the matter in issue.

~~((4))~~ (d) In the event of inconsistency between an agreement under subsection ~~((2))~~ (b) of this section and a choice-of-law rule under subsection ~~((3))~~ (c) of this section, the agreement under subsection ~~((2))~~ (b) of this section prevails.

~~((5))~~ (e) If a funds transfer is made by use of more than one funds-transfer system and there is inconsistency between choice-of-law rules of the systems,

the matter in issue is governed by the law of the selected jurisdiction that has the most significant relationship to the matter in issue.

Sec. 33. RCW 62A.9A-502 and 2000 c 250 s 9A-502 are each amended to read as follows:

(a) **Sufficiency of financing statement.** Subject to subsection (b) of this section, a financing statement is sufficient only if it:

- (1) Provides the name of the debtor;
- (2) Provides the name of the secured party or a representative of the secured party; and
- (3) Indicates the collateral covered by the financing statement.

(b) **Real-property-related financing statements.** Except as otherwise provided in RCW 62A.9A-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) of this section and also:

- (1) Indicate that it covers this type of collateral;
- (2) Indicate that it is to be filed for record in the real property records;
- (3) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
- (4) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) **Record of mortgage as financing statement.** A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

- (1) The record indicates the goods or accounts that it covers;
- (2) The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
- (3) The record satisfies the requirements for a financing statement in this section (~~(other than an indication)~~), but:

(A) The record need not indicate that it is to be filed in the real property records; and

(B) The record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom RCW 62A.9A-503(a)(4) applies; and

- (4) The record is recorded.

(d) **Filing before security agreement or attachment.** A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

Sec. 34. RCW 62A.9A-503 and 2011 c 74 s 401 are each amended to read as follows:

(a) **Sufficiency of debtor's name.** A financing statement sufficiently provides the name of the debtor:

(1) Except as otherwise provided in (3) of this subsection (a), if the debtor is a registered organization or the collateral is held in a trust that is a registered organization, only if the financing statement provides the name that is stated to be the registered organization's name on the public organic record most recently filed with or issued or enacted by the registered organization's jurisdiction of organization which purports to state, amend, or restate the registered organization's name;

(2) Subject to subsection (f) of this section, if the collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative;

(3) If the collateral is held in a trust that is not a registered organization, only if the financing statement:

(A) Provides, as the name of the debtor:

(i) If the organic record of the trust specifies a name for the trust, the name specified; or

(ii) If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(B) In a separate part of the financing statement:

(i) If the name is provided in accordance with (3)(A)(i) of this subsection, indicates that the collateral is held in a trust; or

(ii) If the name is provided in accordance with (3)(A)(ii) of this subsection, provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(4) Subject to subsection (g) of this section, if the debtor is an individual to whom this state has issued a driver's license or identification card that has not expired, only if the financing statement(~~(:~~

~~(A) Provides the individual name of the debtor;~~

~~(B) Provides the surname and first personal name of the debtor; or~~

~~(C) Subject to subsection (g) of this section,)) provides the name of the individual which is indicated on ~~((a))~~ the driver's license or identification card ~~((that this state has issued to the individual and which has not expired))~~;~~

(5) If the debtor is an individual to whom (4) of this subsection (a) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

~~((5))~~ (6) In other cases:

(A) If the debtor has a name, only if the financing statement provides the organizational name of the debtor; and

(B) If the debtor does not have a name, only if the financing statement provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

(b) **Additional debtor-related information.** A financing statement that provides the name of the debtor in accordance with subsection (a) of this section is not rendered ineffective by the absence of:

(1) A trade name or other name of the debtor; or

(2) Unless required under subsection ~~((a)(5)(B))~~ (a)(6)(B) of this section, names of partners, members, associates, or other persons comprising the debtor.

(c) **Debtor's trade name insufficient.** A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) **Representative capacity.** Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) **Multiple debtors and secured parties.** A financing statement may provide the name of more than one debtor and the name of more than one secured party.

(f) **Name of decedent.** The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection (a)(2) of this section.

(g) **Multiple driver's licenses.** If this state has issued to an individual more than one driver's license or identification card of a kind described in subsection (a)(4) of this section, the one that was issued most recently is the one to which subsection (a)(4) of this section refers.

(h) **Definition.** In this section, the "name of the settlor or testator" means:

(1) If the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

(2) In other cases, the name of the settlor or testator indicated in the trust's organic record.

NEW SECTION. Sec. 35. Section captions as used in this act are law.

NEW SECTION. Sec. 36. Sections 33 and 34 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2013.

Passed by the House April 18, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 119

[Substitute House Bill 1116]

COLLABORATIVE LAW

AN ACT Relating to collaborative law; and adding a new chapter to Title 7 RCW.

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 collaborative law act."

NEW SECTION. Sec. 2. DEFINITIONS. In this chapter:

(1) "Collaborative law communication" means a statement, whether oral or in a record, or verbal or nonverbal, that:

(a) Is made to conduct, participate in, continue, or reconvene a collaborative law process; and

(b) Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.

(2) "Collaborative law participation agreement" means an agreement by persons to participate in a collaborative law process.

(3) "Collaborative law process" means a procedure intended to resolve a collaborative matter without intervention by a tribunal in which persons:

(a) Sign a collaborative law participation agreement; and

(b) Are represented by collaborative lawyers.

(4) "Collaborative lawyer" means a lawyer who represents a party in a collaborative law process.

(5) "Collaborative matter" means a dispute, transaction, claim, problem, or issue for resolution, including a dispute, claim, or issue in a proceeding, which is described in a collaborative law participation agreement.

(6) "Law firm" means:

(a) Lawyers who practice law together in a partnership, professional corporation, sole proprietorship, limited liability company, or association; and

(b) Lawyers employed in a legal services organization, or the legal department of a corporation or other organization, or the legal department of a government or governmental subdivision, agency, or instrumentality.

(7) "Nonparty participant" means a person, other than a party and the party's collaborative lawyer, that participates in a collaborative law process.

(8) "Party" means a person that signs a collaborative law participation agreement and whose consent is necessary to resolve a collaborative matter.

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

(10) "Proceeding" means a judicial, administrative, arbitral, or other adjudicative process before a tribunal, including related prehearing and posthearing motions, conferences, and discovery.

(11) "Prospective party" means a person that discusses with a prospective collaborative lawyer the possibility of signing a collaborative law participation agreement.

(12) "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.

(13) "Related to a collaborative matter" means involving the same parties, transaction or occurrence, nucleus of operative fact, dispute, claim, or issue as the collaborative matter.

(14) "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.

(15) "Tribunal" means a court, arbitrator, administrative agency, or other body acting in an adjudicative capacity which, after presentation of evidence or legal argument, has jurisdiction to render a decision affecting a party's interests in a matter.

NEW SECTION. Sec. 3. APPLICABILITY. (1) This chapter applies to a collaborative law participation agreement that meets the requirements of section 4 of this act signed on or after the effective date of this section.

(2) The use of collaborative law applies only to matters that would be resolved in civil court and may not be used to resolve matters in criminal cases.

NEW SECTION. Sec. 4. COLLABORATIVE LAW PARTICIPATION AGREEMENT; REQUIREMENTS. (1) A collaborative law participation agreement must:

- (a) Be in a record;
- (b) Be signed by the parties;
- (c) State the parties' intention to resolve a collaborative matter through a collaborative law process under this chapter;
- (d) Describe the nature and scope of the matter;
- (e) Identify the collaborative lawyer who represents each party in the process; and
- (f) Contain a statement by each collaborative lawyer confirming the lawyer's representation of a party in the collaborative law process.

(2) Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this chapter.

NEW SECTION. Sec. 5. BEGINNING AND CONCLUDING COLLABORATIVE LAW PROCESS. (1) A collaborative law process begins when the parties sign a collaborative law participation agreement.

(2) A tribunal may not order a party to participate in a collaborative law process over that party's objection.

(3) A collaborative law process is concluded by a:

- (a) Resolution of a collaborative matter as evidenced by a signed record;
- (b) Resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the matter will not be resolved in the process; or
- (c) Termination of the process.

(4) A collaborative law process terminates:

- (a) When a party gives notice to other parties in a record that the process is ended; or
- (b) When a party:
 - (i) Begins a proceeding related to a collaborative matter without the agreement of all parties; or
 - (ii) In a pending proceeding related to the matter:
 - (A) Initiates a pleading, motion, order to show cause, or request for a conference with the tribunal without the agreement of all parties as to the relief sought;

(B) Requests that the proceeding be put on the tribunal's active calendar; or
 (C) Takes similar contested action requiring notice to be sent to the parties;
 or

(c) Except as otherwise provided by subsection (7) of this section, when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

(5) A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal.

(6) A party may terminate a collaborative law process with or without cause.

(7) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues, if not later than thirty days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by subsection (5) of this section is sent to the parties:

(a) The unrepresented party engages a successor collaborative lawyer; and

(b) In a signed record:

(i) The parties consent to continue the process by reaffirming the collaborative law participation agreement;

(ii) The agreement is amended to identify the successor collaborative lawyer; and

(iii) The successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative law process.

(8) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part thereof as evidenced by a signed record.

(9) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

NEW SECTION. Sec. 6. PROCEEDINGS PENDING BEFORE TRIBUNAL; STATUS REPORT. (1) Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. Parties shall file promptly with the tribunal a notice of the agreement after it is signed. Subject to subsection (3) of this section and sections 7 and 8 of this act, the filing operates as an application for a stay of the proceeding.

(2) The parties shall file promptly with the tribunal notice in a record when a collaborative law process concludes. The stay of the proceeding under subsection (1) of this section is lifted when the notice is filed. The notice may not specify any reason for termination of the process.

(3) A tribunal in which a proceeding is stayed under subsection (1) of this section may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the process is ongoing or concluded. It may not include a report, assessment, evaluation, recommendation, finding, or other communication regarding a collaborative law process or collaborative matter.

(4) A tribunal may not consider a communication made in violation of subsection (3) of this section.

(5) A tribunal shall provide parties notice and an opportunity to be heard before dismissing a proceeding in which a notice of collaborative law process is filed based on delay or failure to prosecute.

NEW SECTION. Sec. 7. EMERGENCY ORDER. During a collaborative law process, a tribunal may issue emergency orders to protect the health, safety, welfare, or interest of a party or a family or household member, as defined in RCW 26.50.010.

NEW SECTION. Sec. 8. APPROVAL OF AGREEMENT BY TRIBUNAL. A tribunal may approve an agreement resulting from a collaborative law process.

NEW SECTION. Sec. 9. DISQUALIFICATION OF COLLABORATIVE LAWYER AND LAWYERS IN ASSOCIATED LAW FIRM. (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 section 10 of this act, 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, 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 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.

NEW SECTION. Sec. 10. GOVERNMENTAL ENTITY AS PARTY. (1) The disqualification of section 9(1) of this act applies to a collaborative lawyer representing a party that is a government or governmental subdivision, agency, or instrumentality.

(2) After a collaborative law process concludes, another lawyer in a law firm with which the collaborative lawyer is associated may represent a government or governmental subdivision, agency, or instrumentality in the collaborative matter or a matter related to the collaborative matter if:

(a) The collaborative law participation agreement so provides; and

(b) The collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm which are reasonably calculated to isolate the collaborative lawyer from such participation.

NEW SECTION. Sec. 11. DISCLOSURE OF INFORMATION. Except as provided by law other than this chapter, during the collaborative law process, on the request of another party, a party shall make timely, full, candid, and informal disclosure of information related to the collaborative matter without formal discovery. A party also shall update promptly previously disclosed information that has materially changed. The parties may define the scope of disclosure during the collaborative law process.

NEW SECTION. Sec. 12. STANDARDS OF PROFESSIONAL RESPONSIBILITY AND MANDATORY REPORTING NOT AFFECTED. (1) This chapter does not affect the professional responsibility obligations and standards applicable to a lawyer or other licensed professional or relieve a

lawyer or other licensed professional from the duty to comply with all applicable professional responsibility obligations and standards.

(2) This chapter does not affect the obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult under the law of this state.

(3) Noncompliance with an obligation or prohibition imposed by this chapter does not in itself establish grounds for professional discipline.

NEW SECTION. Sec. 13. APPROPRIATENESS OF COLLABORATIVE LAW PROCESS. Before a prospective party signs a collaborative law participation agreement, the prospective party must:

(1) Be advised as to whether a collaborative law process is appropriate for the prospective party's matter;

(2) Be provided with sufficient information to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert evaluation;

(3) Be informed that after signing an agreement if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process terminates;

(4) Be informed that participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without cause; and

(5) Be informed that the collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated may not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by law or court rule.

NEW SECTION. Sec. 14. COERCIVE OR VIOLENT RELATIONSHIP. (1) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party.

(2) Throughout a collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.

(3) If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue a collaborative law process unless:

(a) The party or the prospective party requests beginning or continuing a process; and

(b) The collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during a process.

NEW SECTION. Sec. 15. CONFIDENTIALITY OF COLLABORATIVE LAW COMMUNICATION. Subject to section 12 of this act, a collaborative law communication is confidential to the extent agreed by the parties in a signed record or as provided by law of this state other than this chapter.

NEW SECTION. Sec. 16. PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE LAW COMMUNICATION; ADMISSIBILITY; DISCOVERY. (1) Subject to sections 17 and 18 of this act, a collaborative law communication is privileged under subsection (2) of this section, is not subject to discovery, and is not admissible in evidence.

(2) In a proceeding, the following privileges apply:

(a) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

(b) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication of the nonparty participant.

(3) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

NEW SECTION. Sec. 17. WAIVER AND PRECLUSION OF PRIVILEGE. (1) A privilege under section 16 of this act may be waived in a record or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, it is also expressly waived by the nonparty participant.

(2) A person that makes a disclosure or representation about a collaborative law communication which prejudices another person in a proceeding may not assert a privilege under section 16 of this act, but this preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

NEW SECTION. Sec. 18. LIMITS OF PRIVILEGE. (1) There is no privilege under section 16 of this act for a collaborative law communication that is:

(a) Available to the public under chapter 42.56 RCW or made during a session of a collaborative law process that is open, or is required by law to be open, to the public;

(b) A threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(c) Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

(d) In an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

(2) The privileges under section 16 of this act for a collaborative law communication do not apply to the extent that a communication is:

(a) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process;

(b) Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult, unless the child protective services agency or adult protective services agency is a party to or otherwise participates in the process; or

(c) Sought or offered to prove or disprove stalking or cyber stalking of a party or child.

(3) There is no privilege under section 16 of this act if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in:

(a) A court proceeding involving a felony or misdemeanor; or

(b) A proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

(4) If a collaborative law communication is subject to an exception under subsection (2) or (3) of this section, only the part of the communication necessary for the application of the exception may be disclosed or admitted.

(5) Disclosure or admission of evidence excepted from the privilege under subsection (2) or (3) of this section does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(6) The privileges under section 16 of this act do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This subsection does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the communication was made.

NEW SECTION. Sec. 19. AUTHORITY OF TRIBUNAL IN CASE OF NONCOMPLIANCE. (1) If an agreement fails to meet the requirements of section 4 of this act, or a lawyer fails to comply with section 13 or 14 of this act, a tribunal may nonetheless find that the parties intended to enter into a collaborative law participation agreement if they:

(a) Signed a record indicating an intention to enter into a collaborative law participation agreement; and

(b) Reasonably believed they were participating in a collaborative law process.

(2) If a tribunal makes the findings specified in subsection (1) of this section, and the interests of justice require, the tribunal may:

(a) Enforce an agreement evidenced by a record resulting from the process in which the parties participated;

(b) Apply the disqualification provisions of sections 5, 6, 9, and 10 of this act; and

(c) Apply a privilege under section 16 of this act.

NEW SECTION. Sec. 20. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. Sec. 21. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the federal 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).

NEW SECTION. Sec. 22. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. Sections 1 through 22 of this act constitute a new chapter in Title 7 RCW.

Passed by the House April 18, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 120

[House Bill 1277]

TRIBES—CONSERVATION EASEMENTS

AN ACT Relating to tribes holding conservation easements; and amending RCW 64.04.130.

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

Sec. 1. RCW 64.04.130 and 1987 c 341 s 1 are each amended to read as follows:

A development right, easement, covenant, restriction, or other right, or any interest less than the fee simple, to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land, whether the right or interest be appurtenant or in gross, may be held or acquired by any state agency, federal agency, county, city, town, federally recognized Indian tribe, or metropolitan municipal corporation, nonprofit historic preservation corporation, or nonprofit nature conservancy corporation. Any such right or interest (~~shall~~) constitutes and (~~be~~) is classified as real property. All instruments for the conveyance thereof (~~shall~~) must be substantially in the form required by law for the conveyance of any land or other real property.

~~(As used in this section,)~~ The definitions in this section apply throughout this section unless the context clearly requires otherwise.

(1) "Nonprofit nature conservancy corporation" means an organization which qualifies as being tax exempt under 26 U.S.C. section 501(c)(3) (of the United States Internal Revenue Code of 1954, as amended) as it existed on June 25, 1976, and which has as one of its principal purposes the conducting or facilitating of scientific research; the conserving of natural resources, including but not limited to biological resources, for the general public; or the conserving of natural areas including but not limited to wildlife or plant habitat.

~~(As used in this section,)~~ (2) "Nonprofit historic preservation corporation" means an organization which qualifies as being tax exempt under 26 U.S.C. section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended, and which has as one of its principal purposes the conducting or facilitating of historic preservation activities within the state, including conservation or preservation of historic sites, districts, buildings, and artifacts.

Passed by the House April 18, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 121

[Engrossed Substitute House Bill 1291]

SEX TRAFFICKING—VICTIM SERVICES

AN ACT Relating to services for victims of the sex trade; amending RCW 43.63A.740, 9.68A.105, 9A.88.120, and 9A.88.140; adding new sections to chapter 43.280 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature recognizes there are many state agencies and private organizations that might be called on to provide services to victims of sex trafficking. Victims of human trafficking are often in need of services such as emergency medical attention, food and shelter, vocational and English language training, mental health counseling, and legal support. The state intends to improve the response of state, local, and private entities to incidents of trafficking of humans. Victims would be better served if there is an established, coordinated system of identifying the needs of sex trafficking victims, training of service delivery agencies and staff, timely and appropriate delivery of services, and better investigations and prosecutions of trafficking.

Leadership in providing services to victims of sex trafficking also extends beyond government efforts and is grounded in the work of highly dedicated individuals and community-based groups. Without these efforts the struggle against human trafficking will be very difficult to win. The legislature, therefore, finds that such efforts merit regular public recognition and appreciation. Such recognition and appreciation will encourage the efforts of all persons to end sex trafficking, and provide the public with information and education about the necessity of its involvement in this struggle.

NEW SECTION. Sec. 2. A new section is added to chapter 43.280 RCW to read as follows:

(1) The statewide coordinating committee on sex trafficking is established to address the issues of sex trafficking, to examine the practices of local and regional entities involved in addressing sex trafficking, and to develop a statewide plan to address sex trafficking.

(2) The committee is administered by the department of commerce and consists of the following members:

(a) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(b) A representative of the Washington attorney general's office;

(c) The president or corporate executive officer of the center for children and youth justice or his or her designee;

(d) The secretary of the children's administration or his or her designee;

(e) The secretary of the juvenile rehabilitation administration or his or her designee;

- (f) The superintendent of public instruction or his or her designee;
 - (g) A representative of the administrative office of the courts appointed by the administrative office of the courts;
 - (h) The executive director of the Washington association of sheriffs and police chiefs or his or her designee;
 - (i) The executive director of the Washington state criminal justice training commission or his or her designee;
 - (j) Representatives of community advocacy groups that work to address the issues of human trafficking, to be appointed by the department of commerce's office of crime victims advocacy;
 - (k) A representative of the Washington association of prosecuting attorneys appointed by the association;
 - (l) Representatives of community service providers that serve victims of human trafficking, to be appointed by the department of commerce's office of crime victims advocacy;
 - (m) The executive director of Washington engage or his or her designee;
 - (n) A representative from shared hope international or his or her designee;
 - (o) The executive director of the Washington coalition of crime victim advocates or his or her designee;
 - (p) The executive director of the Washington coalition of sexual assault programs or his or her designee;
 - (q) The executive director of the Washington state coalition against domestic violence or his or her designee;
 - (r) The executive director of the Washington association of cities or his or her designee;
 - (s) The executive director of the Washington association of counties or his or her designee; and
 - (t) The director or a representative from the crime victims compensation program.
- (3) The duties of the committee include, but are not limited to:
- (a) Gathering and assessing service practices from diverse sources regarding service demand and delivery;
 - (b) Analyzing data regarding the implementation of sex trafficking legislation passed in recent years by the legislature, including reports submitted to the department of commerce pursuant to RCW 9.68A.105, 9A.88.120, and 9A.88.140, and assessing the efficacy of such legislation in addressing sex trafficking, as well as any obstacles to the impact of legislation on the commercial sex trade;
 - (c) Receiving and reviewing reports, recommendations, and statewide protocols as implemented in the pilot sites selected by the center for children and youth justice regarding commercially sexually exploited youth submitted to the committee by organizations that coordinate local community response practices and regional entities concerned with commercially sexually exploited youth; and
 - (d) Gathering and reviewing existing data, research, and literature to help shape a plan of action to address human trafficking in Washington to include:
 - (i) Strategies for Washington to undertake to end sex trafficking; and
 - (ii) Necessary data collection improvements.

(4) The committee shall meet twice and, by December 2014, produce a report on its activities, together with a statewide plan to address sex trafficking in Washington, to the governor's office and the legislature.

(5) All expenses of the committee shall come from the prostitution prevention and intervention account created in RCW 43.63A.740.

(6) The members of the committee shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, within available resources.

(7) The committee expires June 30, 2015.

Sec. 3. RCW 43.63A.740 and 2010 c 289 s 18 are each amended to read as follows:

The prostitution prevention and intervention account is created in the state treasury. ~~((All designated receipts from fees under RCW 9.68A.105 and 9A.88.120 and fines collected under RCW 9A.88.140 shall be deposited into the account.))~~ Expenditures from the account may be used in the following order of priority:

(1) Funding the statewide coordinating committee on sex trafficking;

(2) Programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense pursuant to RCW 13.40.213;

~~((2))~~ (3) Funding for services provided to sexually exploited children as defined in RCW 13.32A.030 in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;

~~((3))~~ (4) Funding for services specified in RCW 74.14B.060 and 74.14B.070 for sexually exploited children; and

~~((4))~~ (5) Funding the grant program to enhance prostitution prevention and intervention services under RCW 43.63A.720.

Sec. 4. RCW 9.68A.105 and 2012 c 134 s 4 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9.68A.100, 9.68A.101, and 9.68A.102, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance shall be assessed a five thousand dollar fee.

(b) The court may not reduce, waive, or suspend payment of all or part of the fee assessed unless it finds, on the record, that the person does not have the ability to pay in which case it may reduce the fee by an amount up to two-thirds of the maximum allowable fee.

(c) When a minor has been adjudicated a juvenile offender or has entered into a statutory or nonstatutory diversion agreement for an offense which, if committed by an adult, would constitute a violation of RCW 9.68A.100, 9.68A.101, or 9.68A.102, or a comparable county or municipal ordinance, the court shall assess the fee under (a) of this subsection. The court may not reduce, waive, or suspend payment of all or part of the fee assessed unless it finds, on the record, that the minor does not have the ability to pay the fee in which case it

may reduce the fee by an amount up to two-thirds of the maximum allowable fee.

(2) Fees assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(a) At least fifty percent of the revenue from fees imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

(b) Two percent of the revenue from fees imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent.

(c) Revenues from these fees are not subject to the distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or 35.20.220.

(3) For the purposes of this section:

(a) "Statutory or nonstatutory diversion agreement" means an agreement under RCW 13.40.080 or any written agreement between a person accused of an offense listed in subsection (1) of this section and a court, county or city prosecutor, or designee thereof, whereby the person agrees to fulfill certain conditions in lieu of prosecution.

(b) "Deferred sentence" means a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

Sec. 5. RCW 9A.88.120 and 2012 c 134 s 3 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9A.88.010 and 9A.88.030, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.010, 9A.88.030, or comparable county or municipal ordinances shall be assessed a fifty dollar fee.

(b) In addition to penalties set forth in RCW 9A.88.090, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.090 or comparable county or municipal ordinances shall be assessed a fee in the amount of:

(i) One thousand five hundred dollars if the defendant has no prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense;

(ii) Two thousand five hundred dollars if the defendant has one prior conviction, deferred sentence, deferred prosecution, or statutory or nonstatutory diversion agreement for this offense; and

(iii) Five thousand dollars if the defendant has two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense.

(c) In addition to penalties set forth in RCW 9A.88.110, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.110 or a comparable county or municipal ordinance shall be assessed a fee in the amount of:

(i) One thousand five hundred dollars if the defendant has no prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense;

(ii) Two thousand five hundred dollars if the defendant has one prior conviction, deferred sentence, deferred prosecution, or statutory or nonstatutory diversion agreement for this offense; and

(iii) Five thousand dollars if the defendant has two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense.

(d) In addition to penalties set forth in RCW 9A.88.070 and 9A.88.080, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal ordinances shall be assessed a fee in the amount of:

(i) Three thousand dollars if the defendant has no prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense;

(ii) Six thousand dollars if the defendant has one prior conviction, deferred sentence, deferred prosecution, or statutory or nonstatutory diversion agreement for this offense; and

(iii) Ten thousand dollars if the defendant has two or more prior convictions, deferred sentences, deferred prosecutions, or statutory or nonstatutory diversion agreements for this offense.

(2) When a minor has been adjudicated a juvenile offender or has entered into a statutory or nonstatutory diversion agreement for an offense which, if committed by an adult, would constitute a violation under this chapter or comparable county or municipal ordinances, the court shall assess the fee as specified under subsection (1) of this section.

(3) The court shall not reduce, waive, or suspend payment of all or part of the assessed fee in this section unless it finds, on the record, that the offender does not have the ability to pay the fee in which case it may reduce the fee by an amount up to two-thirds of the maximum allowable fee.

(a) A superior court may, as described in RCW 9.94A.760, set a sum that the offender is required to pay on a monthly basis towards satisfying the fee imposed in this section.

(b) A district or municipal court may enter into a payment plan with the defendant, in which the fee assessed in this section is paid through scheduled periodic payments. The court may assess the defendant a reasonable fee for administrative services related to the operation of the payment plan.

(4) Fees assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(a) At least fifty percent of the revenue from fees imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

(b) Two percent of the revenue from fees imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent.

(c) Revenues from these fees are not subject to the distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or 35.20.220.

(5) For the purposes of this section:

(a) "Statutory or nonstatutory diversion agreement" means an agreement under RCW 13.40.080 or any written agreement between a person accused of an offense listed in subsection (1) of this section and a court, county, or city prosecutor, or designee thereof, whereby the person agrees to fulfill certain conditions in lieu of prosecution.

(b) "Deferred sentence" means a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

Sec. 6. RCW 9A.88.140 and 2010 c 289 s 12 are each amended to read as follows:

(1)(a) Upon an arrest for a suspected violation of patronizing a prostitute, promoting prostitution in the first degree, promoting prostitution in the second degree, promoting travel for prostitution, the arresting law enforcement officer may impound the person's vehicle if (i) the motor vehicle was used in the commission of the crime; (ii) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465; and (iii) either (A) the person arrested has previously been convicted of one of the offenses listed in this subsection or (B) the offense was committed within an area designated under (b) of this subsection.

(b) A local governing authority may designate areas within which vehicles are subject to impoundment under this section regardless of whether the person arrested has previously been convicted of any of the offenses listed in (a) of this subsection.

(i) The designation must be based on evidence indicating that the area has a disproportionately higher number of arrests for the offenses listed in (a) of this subsection as compared to other areas within the same jurisdiction.

(ii) The local governing authority shall post signs at the boundaries of the designated area to indicate that the area has been designated under this subsection.

(2) Upon an arrest for a suspected violation of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting travel for commercial sexual abuse of a minor, the arresting law enforcement officer shall impound the person's vehicle if (a) the motor vehicle was used in the commission of the crime; and (b) the person arrested is the owner of the vehicle or the vehicle is a rental car as defined in RCW 46.04.465.

(3) Impoundments performed under this section shall be in accordance with chapter 46.55 RCW and the impoundment order must clearly state "prostitution hold."

(4)(a) Prior to redeeming the impounded vehicle, and in addition to all applicable impoundment, towing, and storage fees paid to the towing company under chapter 46.55 RCW, the owner of the impounded vehicle must pay a fine to the impounding agency. The fine shall be five hundred dollars for the offenses specified in subsection (1) of this section, or two thousand five hundred dollars for the offenses specified in subsection (2) of this section. ~~((The fine shall be deposited in the prostitution prevention and intervention account established under RCW 43.63A.740.))~~

(b) Upon receipt of the fine paid under (a) of this subsection, the impounding agency shall issue a written receipt to the owner of the impounded vehicle.

(c) Fines assessed under this section shall be collected by the clerk of the court and remitted to the treasurer of the county where the offense occurred for deposit in the county general fund, except in cases in which the offense occurred in a city or town that provides for its own law enforcement, in which case these amounts shall be remitted to the treasurer of the city or town for deposit in the general fund of the city or town. Revenue from the fines must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.

(i) At least fifty percent of the revenue from fines imposed under this section must be spent on prevention, including education programs for offenders, such as john school, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.

(ii) Two percent of the revenue from fines imposed under this section shall be remitted quarterly to the department of commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent.

(iii) Revenues from these fees are not subject to the distribution requirements under RCW 3.50.100, 3.62.020, 3.62.040, 10.82.070, or 35.20.220.

(5)(a) In order to redeem a vehicle impounded under this section, the owner must provide the towing company with the written receipt issued under subsection (4)(b) of this section.

(b) The written receipt issued under subsection (4)(b) of this section authorizes the towing company to release the impounded vehicle upon payment of all impoundment, towing, and storage fees.

(c) A towing company that relies on a forged receipt to release a vehicle impounded under this section is not liable to the impounding authority for any unpaid fine under subsection (4)(a) of this section.

(6)(a) In any proceeding under chapter 46.55 RCW to contest the validity of an impoundment under this section where the claimant substantially prevails, the claimant is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the five hundred dollar fine paid under subsection (4) of this section.

(b) If the person is found not guilty at trial for a crime listed under subsection (1) of this section, the person is entitled to a full refund of the impoundment, towing, and storage fees paid under chapter 46.55 RCW and the fine paid under subsection (4) of this section.

(c) All refunds made under this section shall be paid by the impounding agency.

(d) Prior to receiving any refund under this section, the claimant must provide proof of payment.

NEW SECTION, Sec. 7. A new section is added to chapter 43.280 RCW to read as follows:

(1) The department of commerce shall prepare and submit an annual report to the legislature on the amount of revenue collected by local jurisdictions under RCW 9.68A.105, 9A.88.120, or 9A.88.140 and the expenditure of that revenue.

(2) Any funds remitted to the department of commerce pursuant to RCW 9.68A.105, 9A.88.120, or 9A.88.140 shall be spent on the fulfillment of the duties described in subsection (1) of this section. Any remaining funds may be spent on the administration of grants for services for victims of the commercial sex trade, consistent with this chapter.

Passed by the House April 18, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 122

[Engrossed House Bill 1394]

EMPLOYMENT SECURITY DEPARTMENT—SETTLEMENT AUTHORITY

AN ACT Relating to changing the employment security department's settlement authority; amending RCW 50.24.020; creating new sections; and declaring an emergency.

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

Sec. 1. RCW 50.24.020 and 1983 1st ex.s. c 23 s 14 are each amended to read as follows:

The commissioner may compromise any claim for contributions, interest, or penalties due and owing from an employer, and any amount owed by an individual because of benefit overpayments (~~(, whether reduced to judgment or otherwise,)~~) existing or arising under this title in any case where collection of the full ~~((claim, in the case of contributions, interest, or penalties, would result in the insolvency of the employing unit or individual from whom such contributions, interest, or penalties are claimed, and any case where collection of the full amount of benefit overpayments made to an individual))~~ amount due and owing, whether reduced to judgment or otherwise, would be against equity and good conscience.

Whenever a compromise is made by the commissioner in the case of a claim for contributions, interest, or penalties, whether reduced to judgment or otherwise, there shall be placed on file in the office of the unemployment compensation division a statement of the amount of contributions, interest, and penalties imposed by law and claimed due, attorneys' fees and costs, if any, a complete record of the compromise agreement, and the amount actually paid in accordance with the terms of the compromise agreement. Whenever a compromise is made by the commissioner in the case of a claim of a benefit overpayment, whether reduced to judgment or otherwise, there shall be placed on file in the office of the unemployment compensation division a statement of the amount of the benefit overpayment, attorneys' fees and costs, if any, a complete record of the compromise agreement, and the amount actually paid in accordance with the terms of the compromise agreement.

If any such compromise is accepted by the commissioner, within such time as may be stated in the compromise or agreed to, such compromise shall be final and conclusive and except upon showing of fraud or malfeasance or misrepresentation of a material fact the case shall not be reopened as to the matters agreed upon. In any suit, action, or proceeding, such agreement or any determination, collection, payment, adjustment, refund, or credit made in accordance therewith shall not be annulled, modified, set aside, or disregarded.

NEW SECTION. Sec. 2. 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. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 5. Section 1 of this act applies retroactively to January 1, 2013.

Passed by the House April 18, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 123

[Engrossed Substitute House Bill 1432]

COUNTY PROPERTY TAX LEVIES—VETERANS' ASSISTANCE—
MENTAL HEALTH SERVICES

AN ACT Relating to county property tax levies; and amending RCW 71.20.110 and 73.08.080.

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

Sec. 1. RCW 71.20.110 and 1988 c 176 s 910 are each amended to read as follows:

(1) In order to provide additional funds for the coordination and provision of community services for persons with developmental disabilities or mental health services, the county governing authority of each county in the state (~~shall~~) must budget and levy annually a tax in a sum equal to the amount which would be raised by a levy of two and one-half cents per thousand dollars of assessed value against the taxable property in the county, or as such amount is modified pursuant to subsection (2) or (3) of this section, to be used for such purposes (~~as PROVIDED, That~~). However, all or part of the funds collected from the tax levied for the purposes of this section may be transferred to the state of Washington, department of social and health services, for the purpose of obtaining federal matching funds to provide and coordinate community services for persons with developmental disabilities and mental health services. In the event a county elects to transfer such tax funds to the state for this purpose, the state (~~shall~~) must grant these moneys and the additional funds received as matching funds to service-providing community agencies or community boards in the county which has made such transfer, pursuant to the plan approved by the county, as provided by chapters 71.24 and 71.28 RCW and by chapter 71A.14 RCW, all as now or hereafter amended.

(2) The amount of a levy allocated to the purposes specified in this section may be reduced in the same proportion as the regular property tax levy of the county is reduced by chapter 84.55 RCW.

(3)(a) The amount of a levy allocated to the purposes specified in this section may be modified from the amount required by subsection (1) of this section as follows:

(i) If the certified levy is reduced from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section may be reduced by no more than the same percentage as the certified levy is reduced from the preceding year's certified levy;

(ii) If the certified levy is increased from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section must be increased from the amount of the levy so allocated in the previous year by at least the same percentage as the certified levy is increased from the preceding year's certified levy. However, the amount of the levy allocated to the purposes specified in this section does not have to be increased under this subsection (3)(a)(ii) for the portion of a certified levy increase resulting from a voter-approved increase under RCW 84.55.050 that is dedicated to a specific purpose; or

(iii) If the certified levy is unchanged from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section

must be equal to or greater than the amount of the levy so allocated in the preceding year.

(b) For purposes of this subsection, "certified levy" means the property tax levy for general county purposes certified to the county assessor as required by RCW 84.52.070, excluding any amounts certified under chapters 84.69 and 84.68 RCW.

(4) Subsections (2) and (3) of this section do not preclude a county from increasing the levy amount in subsection (1) of this section to an amount that is greater than the change in the regular county levy.

Sec. 2. RCW 73.08.080 and 2005 c 250 s 6 are each amended to read as follows:

(1) The legislative authority in each county (~~(shall)~~) must levy, in addition to the taxes now levied by law, a tax in a sum equal to the amount which would be raised by not less than one and one-eighth cents per thousand dollars of assessed value, and not greater than twenty-seven cents per thousand dollars of assessed value against the taxable property of their respective counties, to be levied and collected as now prescribed by law for the assessment and collection of taxes, for the purpose of creating a veterans' assistance fund. Expenditures from the veterans' assistance fund, and interest earned on balances from the fund, may be used only for:

- (a) The veterans' assistance programs authorized by RCW 73.08.010;
- (b) The burial or cremation of a deceased indigent veteran or deceased family member of an indigent veteran as authorized by RCW 73.08.070; and
- (c) The direct and indirect costs incurred in the administration of the fund as authorized by subsection (2) of this section.

(2) If the funds on deposit in the veterans' assistance fund, less outstanding warrants, on the first Tuesday in September exceed the lesser of the expected yield of one and one-eighth cents per thousand dollars of assessed value against the taxable property of the county or the expected yield of a levy determined as set forth in subsection (5) of this section, the county legislative authority may levy a lesser amount than would otherwise be required under subsection (1) or (5) of this section.

(3) The direct and indirect costs incurred in the administration of the veterans' assistance fund (~~(shall)~~) must be computed by the county auditor, or the chief financial officer in a county operating under a charter, not less than annually. Following the computation of these direct and indirect costs, an amount equal to these costs may then be transferred from the veterans' assistance fund to the county current expense fund.

~~((3))~~ (4) The amount of a levy allocated to the purposes specified in this section may be reduced in the same proportion as the regular property tax levy of the county is reduced by chapter 84.55 RCW.

(5)(a) The amount of a levy allocated to the purposes specified in this section may be modified from the amount required by subsection (1) of this section as follows:

(i) If the certified levy is reduced from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section may be reduced by no more than the same percentage as the certified levy is reduced from the preceding year's certified levy;

(ii) If the certified levy is increased from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section may not be less than the base allocation increased by the same percentage as the certified levy is increased from the preceding year's certified levy. However, the amount of the levy allocated to the purposes specified in this section does not have to be increased under this subsection (5)(a)(ii) for the portion of a certified levy increase resulting from a voter-approved increase under RCW 84.55.050 that is dedicated to a specific purpose; or

(iii) If the certified levy is unchanged from the preceding year's certified levy, the amount of the levy allocated to the purposes specified in this section must be equal to or greater than the base allocation.

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

(i) "Base allocation" means the most recent allocation that was not reduced under subsection (2) of this section.

(ii) "Certified levy" means the property tax levy for general county purposes certified to the county assessor as required by RCW 84.52.070, excluding any amounts certified under chapters 84.69 and 84.68 RCW.

(6) Subsections (2), (4), and (5) of this section do not preclude a county from increasing the levy amount in subsection (1) of this section to an amount that is greater than the change in the regular county levy.

Passed by the House April 18, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 124

[Substitute House Bill 1456]

STATE EMPLOYEES—PAYROLL DEDUCTIONS—TRANSIT AND PARKING BENEFITS

AN ACT Relating to pretax payroll deductions for qualified transit and parking benefits; and amending RCW 41.04.230.

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

Sec. 1. RCW 41.04.230 and 2007 c 99 s 1 are each amended to read as follows:

Any official of the state authorized to disburse funds in payment of salaries and wages of public officers or employees is authorized, upon written request of the officer or employee, to deduct from the salaries or wages of the officers or employees, the amount or amounts of subscription payments, premiums, contributions, or continuation thereof, for payment of the following:

(1) Credit union deductions: PROVIDED, That twenty-five or more employees of a single state agency or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same credit union. An agency may, in its own discretion, establish a minimum participation requirement of fewer than twenty-five employees.

(2) Parking fee deductions: PROVIDED, That payment is made for parking facilities furnished by the agency or by the department of (~~general administration~~) enterprise services. Deductions shall be pretax, to the extent

possible, for qualified parking and transit benefits as allowed under the federal internal revenue code.

(3) U.S. savings bond deductions: PROVIDED, That a person within the particular agency shall be appointed to act as trustee. The trustee will receive all contributions; purchase and deliver all bond certificates; and keep such records and furnish such bond or security as will render full accountability for all bond contributions.

(4) Board, lodging or uniform deductions when such board, lodging and uniforms are furnished by the state, or deductions for academic tuitions or fees or scholarship contributions payable to the employing institution.

(5) Dues and other fees deductions: PROVIDED, That the deduction is for payment of membership dues to any professional organization formed primarily for public employees or college and university professors: AND PROVIDED, FURTHER, That twenty-five or more employees of a single state agency, or a total of one hundred or more state employees of several agencies have authorized such a deduction for payment to the same professional organization.

(6) Labor, employee, or retiree organization dues, and voluntary employee contributions to any funds, committees, or subsidiary organizations maintained by labor, employee, or retiree organizations, may be deducted in the event that a payroll deduction is not provided under a collective bargaining agreement under the provisions of chapter 41.80 RCW: PROVIDED, That each labor, employee, or retiree organization chooses only one fund for voluntary employee contributions: PROVIDED, FURTHER, That twenty-five or more officers or employees of a single agency, or a total of one hundred or more officers or employees of several agencies have authorized such a deduction for payment to the same labor, employee, or retiree organization: PROVIDED, FURTHER, That labor, employee, or retiree organizations with five hundred or more members in state government may have payroll deduction for employee benefit programs.

(7) Insurance contributions to the authority for payment of premiums under contracts authorized by the state health care authority. However, enrollment or assignment by the state health care authority to participate in a health care benefit plan, as required by RCW 41.05.065(~~(7)~~) (8), shall authorize a payroll deduction of premium contributions without a written consent under the terms and conditions established by the public employees' benefits board.

(8) Deductions to a bank, savings bank, or savings and loan association if (a) the bank, savings bank, or savings and loan association is authorized to do business in this state; and (b) twenty-five or more employees of a single agency, or fewer, if a lesser number is established by such agency, or a total of one hundred or more state employees of several agencies have authorized a deduction for payment to the same bank, savings bank, or savings and loan association.

Deductions from salaries and wages of public officers and employees other than those enumerated in this section or by other law, may be authorized by the director of financial management for purposes clearly related to state employment or goals and objectives of the agency and for plans authorized by the state health care authority.

(9) Contributions to the Washington state combined fund drive.

The authority to make deductions from the salaries and wages of public officers and employees as provided for in this section shall be in addition to such other authority as may be provided by law: PROVIDED, That the state or any department, division, or separate agency of the state shall not be liable to any insurance carrier or contractor for the failure to make or transmit any such deduction.

Passed by the House March 5, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 125

[House Bill 1468]

CRIME VICTIMS—CLAIMANTS' BENEFITS—PAYMENTS

AN ACT Relating to payment methods on certain claimants' benefits; and amending RCW 7.68.031, 7.68.033, 7.68.034, 51.04.080, 51.28.060, 51.32.040, 51.32.045, and 51.44.110.

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

Sec. 1. RCW 7.68.031 and 2011 c 346 s 201 are each amended to read as follows:

On all claims under this chapter, claimants' written or electronic notices, orders, or (~~warrants~~) payments must be forwarded directly to the claimant until such time as there has been entered an order on the claim appealable to the department. Claimants' written or electronic notices, orders, or (~~warrants~~) payments may be forwarded to the claimant in care of a representative before an order has been entered if the claimant sets forth in writing the name and address of the representative to whom the claimant desires this information to be forwarded.

Sec. 2. RCW 7.68.033 and 2011 c 346 s 203 are each amended to read as follows:

(1) Except as provided in RCW 43.20B.720, 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under this chapter shall, before the issuance and delivery of the (~~check or warrant~~) payment, or disbursement of electronic funds or electronic payment, be assigned, charged, or taken in execution, attached, garnished, or pass or be paid to any other person by operation of law, any form of voluntary assignment, or power of attorney. Any such assignment or charge is void unless the transfer is to a financial institution at the request of a victim or other beneficiary and made in accordance with RCW 7.68.034.

(2)(a) If any victim suffers an injury and dies from it before he or she receives payment of any monthly installment covering financial support for lost wages for any period of time before his or her death, the amount of the monthly payment shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the amount of the monthly payment shall be paid by the department and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(b) Any application for compensation under this subsection (2) shall be filed with the department within one year of the date of death. The department may satisfy its responsibilities under this subsection (2) by sending any payment due in the name of the decedent and to the last known address of the decedent.

(3) Any victim or beneficiary receiving benefits under this chapter who is subsequently confined in, or who subsequently becomes eligible for benefits under this chapter while confined in, any institution under conviction and sentence shall have all payments of the compensation canceled during the period of confinement. After discharge from the institution, payment of benefits due afterward shall be paid if the victim or beneficiary would, except for the provisions of this subsection (3), otherwise be eligible for them.

Sec. 3. RCW 7.68.034 and 2011 c 346 s 204 are each amended to read as follows:

Any victim or other recipient of benefits under this chapter may elect to have any payments due paid by debit card or other electronic means or transferred to such person's account in a financial institution for either: (1) Credit to the recipient's account in such financial institution; or (2) immediate transfer therefrom to the recipient's account in any other financial institution. A single (~~warrant~~) payment may be drawn in favor of such financial institution, for the total amount due the recipients involved, and written directions provided to such financial institution of the amount to be credited to the account of a recipient or to be transferred to an account in another financial institution for such recipient. The issuance and delivery by the disbursing officer of a (~~warrant~~) payment in accordance with the procedure set forth in this section and proper endorsement thereof by the financial institution shall have the same legal effect as payment directly to the recipient.

For the purposes of this section, "financial institution" shall have the meaning given in RCW 41.04.240 as now or hereafter amended.

Sec. 4. RCW 51.04.080 and 2007 c 78 s 1 are each amended to read as follows:

On all claims under this title, claimants' written notices, orders, or (~~warrants~~) payments must be forwarded directly to the claimant until such time as there has been entered an order on the claim appealable to the board of industrial insurance appeals. Claimants' written notices, orders, or (~~warrants~~) payments may be forwarded to the claimant in care of a representative before an order has been entered if the claimant sets forth in writing the name and address of the representative to whom the claimant desires this information to be forwarded.

Sec. 5. RCW 51.28.060 and 1977 ex.s. c 350 s 35 are each amended to read as follows:

A dependent shall at all times furnish the department with proof satisfactory to the director of the nature, amount, and extent of the contribution made by the deceased worker.

Proof of dependency by any beneficiary residing without the United States shall be made before the nearest United States consul or consular agency, under the seal of such consul or consular agent, and the department may cause any (~~warrant or warrants~~) payments to which such beneficiary is entitled to be

transmitted to the beneficiary through the nearest United States consul or consular agent.

Sec. 6. RCW 51.32.040 and 2003 c 379 s 27 are each amended to read as follows:

(1) Except as provided in RCW 43.20B.720, 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under this title shall, before the issuance and delivery of the (~~check or warrant~~) payment, be assigned, charged, or taken in execution, attached, garnished, or pass or be paid to any other person by operation of law, any form of voluntary assignment, or power of attorney. Any such assignment or charge is void unless the transfer is to a financial institution at the request of a worker or other beneficiary and made in accordance with RCW 51.32.045.

(2)(a) If any worker suffers (i) a permanent partial injury and dies from some other cause than the accident which produced the injury before he or she receives payment of the award for the permanent partial injury or (ii) any other injury before he or she receives payment of any monthly installment covering any period of time before his or her death, the amount of the permanent partial disability award or the monthly payment, or both, shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the award or the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(b) If any worker suffers an injury and dies from it before he or she receives payment of any monthly installment covering time loss for any period of time before his or her death, the amount of the monthly payment shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(c) Any application for compensation under this subsection (2) shall be filed with the department or self-insuring employer within one year of the date of death. The department or self-insurer may satisfy its responsibilities under this subsection (2) by sending any payment due in the name of the decedent and to the last known address of the decedent.

(3)(a) Any worker or beneficiary receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible for benefits under this title while confined in, any institution under conviction and sentence shall have all payments of the compensation canceled during the period of confinement. After discharge from the institution, payment of benefits due afterward shall be paid if the worker or beneficiary would, except for the provisions of this subsection (3), otherwise be entitled to them.

(b) If any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she is entitled to payments under this title, subject to the requirements of chapter 72.65 RCW, unless his or her participation in the program has been canceled, or unless he or

she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence.

(c) If the confined worker has any beneficiaries during the confinement period during which benefits are canceled under (a) or (b) of this subsection, they shall be paid directly the monthly benefits which would have been paid to the worker for himself or herself and the worker's beneficiaries had the worker not been confined.

(4) Any lump sum benefits to which a worker would otherwise be entitled but for the provisions of this section shall be paid on a monthly basis to his or her beneficiaries.

Sec. 7. RCW 51.32.045 and 1982 c 109 s 11 are each amended to read as follows:

Any worker or other recipient of benefits under this title may elect to have any payments due paid by debit card or other electronic means or transferred to such person's account in a financial institution for either: (1) Credit to the recipient's account in such financial institution; or (2) immediate transfer therefrom to the recipient's account in any other financial institution. The debit card or other electronic means payment option is available at the discretion of the department or self-insured employer, and the recipient must request in writing on a department-approved form or other department-approved method that the recipient's payments be made through this payment option.

A single (~~warrant~~) payment may be drawn in favor of such financial institution, for the total amount due the recipients involved, and written directions provided to such financial institution of the amount to be credited to the account of a recipient or to be transferred to an account in another financial institution for such recipient. The issuance and delivery by the disbursing officer of a (~~warrant~~) payment in accordance with the procedure set forth in this section and proper indorsement thereof by the financial institution shall have the same legal effect as payment directly to the recipient.

For the purposes of this section, "financial institution" shall have the meaning given in RCW 41.04.240 as now or hereafter amended.

Sec. 8. RCW 51.44.110 and 1977 ex.s. c 350 s 68 are each amended to read as follows:

Disbursement out of the several funds shall be made only upon warrants or payments drawn by the department. The state treasurer shall pay every warrant or payment out of the fund upon which it is drawn. If, at any time, there shall not be sufficient money in the fund on which any such warrant or payment is drawn wherewith to pay the same, the employer on account of whose worker it was that the warrant or payment was drawn shall pay the same, and he or she shall be credited upon his or her next following contribution to such fund the amount so paid with interest thereon at the legal rate from the date of such payment to the date such next following contribution became payable and, if the amount of the credit shall exceed the amount of the contribution, he or she shall have a warrant or payment upon the same fund for the excess and, if any such warrant or payment shall not be so paid, it shall remain, nevertheless, payable out of the fund.

Passed by the House March 9, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 3, 2013.
Filed in Office of Secretary of State May 3, 2013.

CHAPTER 126

[Engrossed Substitute House Bill 1480]

PRESCRIPTION DRUGS—DIRECT PRACTICE PROVIDERS

AN ACT Relating to providing prescription drugs by direct practice providers; amending RCW 48.150.040; and reenacting and amending RCW 48.150.010.

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

Sec. 1. RCW 48.150.010 and 2009 c 552 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) "Direct agreement" means a written agreement entered into between a direct practice and an individual direct patient, or the parent or legal guardian of the direct patient or a family of direct patients, whereby the direct practice charges a direct fee as consideration for being available to provide and providing primary care services to the individual direct patient. A direct agreement must (a) describe the specific health care services the direct practice will provide; and (b) be terminable at will upon written notice by the direct patient.

(2) "Direct fee" means a fee charged by a direct practice as consideration for being available to provide and providing primary care services as specified in a direct agreement.

(3) "Direct patient" means a person who is party to a direct agreement and is entitled to receive primary care services under the direct agreement from the direct practice.

(4) "Direct patient-provider primary care practice" and "direct practice" means a provider, group, or entity that meets the following criteria in (a), (b), (c), and (d) of this subsection:

(a)(i) A health care provider who furnishes primary care services through a direct agreement;

(ii) A group of health care providers who furnish primary care services through a direct agreement; or

(iii) An entity that sponsors, employs, or is otherwise affiliated with a group of health care providers who furnish only primary care services through a direct agreement, which entity is wholly owned by the group of health care providers or is a nonprofit corporation exempt from taxation under section 501(c)(3) of the internal revenue code, and is not otherwise regulated as a health care service contractor, health maintenance organization, or disability insurer under Title 48 RCW. Such entity is not prohibited from sponsoring, employing, or being otherwise affiliated with other types of health care providers not engaged in a direct practice;

(b) Enters into direct agreements with direct patients or parents or legal guardians of direct patients;

(c) Does not accept payment for health care services provided to direct patients from any entity subject to regulation under Title 48 RCW or plans administered under chapter 41.05, 70.47, or 70.47A RCW; and

(d) Does not provide, in consideration for the direct fee, services, procedures, or supplies such as prescription drugs except as provided in RCW 48.150.040(2)(b)(i)(B), hospitalization costs, major surgery, dialysis, high level radiology (CT, MRI, PET scans or invasive radiology), rehabilitation services, procedures requiring general anesthesia, or similar advanced procedures, services, or supplies.

(5) "Health care provider" or "provider" means a person regulated under Title 18 RCW or chapter 70.127 RCW to practice health or health-related services or otherwise practicing health care services in this state consistent with state law.

(6) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005.

(7) "Network" means the group of participating providers and facilities providing health care services to a particular health carrier's health plan or to plans administered under chapter 41.05, 70.47, or 70.47A RCW.

(8) "Primary care" means routine health care services, including screening, assessment, diagnosis, and treatment for the purpose of promotion of health, and detection and management of disease or injury.

Sec. 2. RCW 48.150.040 and 2009 c 552 s 2 are each amended to read as follows:

(1) Direct practices may not:

(a) Enter into a participating provider contract as defined in RCW 48.44.010 or 48.46.020 with any carrier or with any carrier's contractor or subcontractor, or plans administered under chapter 41.05, 70.47, or 70.47A RCW, to provide health care services through a direct agreement except as set forth in subsection (2) of this section;

(b) Submit a claim for payment to any carrier or any carrier's contractor or subcontractor, or plans administered under chapter 41.05, 70.47, or 70.47A RCW, for health care services provided to direct patients as covered by their agreement;

(c) With respect to services provided through a direct agreement, be identified by a carrier or any carrier's contractor or subcontractor, or plans administered under chapter 41.05, 70.47, or 70.47A RCW, as a participant in the carrier's or any carrier's contractor or subcontractor network for purposes of determining network adequacy or being available for selection by an enrollee under a carrier's benefit plan; or

(d) Pay for health care services covered by a direct agreement rendered to direct patients by providers other than the providers in the direct practice or their employees, except as described in subsection (2)(b) of this section.

(2) Direct practices and providers may:

(a) Enter into a participating provider contract as defined by RCW 48.44.010 and 48.46.020 or plans administered under chapter 41.05, 70.47, or 70.47A RCW for purposes other than payment of claims for services provided to direct patients through a direct agreement. Such providers shall be subject to all other provisions of the participating provider contract applicable to participating providers including but not limited to the right to:

(i) Make referrals to other participating providers;

(ii) Admit the carrier's members to participating hospitals and other health care facilities;

(iii) Prescribe prescription drugs; and
 (iv) Implement other customary provisions of the contract not dealing with reimbursement of services;

(b)(i) Pay for charges associated with:

(A) The provision of routine lab and imaging services; and

(B) The dispensing, at no additional cost to the direct patient, of an initial supply, not to exceed thirty days, of generic prescription drugs prescribed by the direct provider.

(ii) In aggregate (~~such~~) payments made under (b)(i)(A) and (B) of this subsection per year per direct patient are not to exceed fifteen percent of the total annual direct fee charged that direct patient. Exceptions to this limitation may occur with respect to routine lab and imaging services in the event of short-term equipment failure if such failure prevents the provision of care that should not be delayed; and

(c) Charge an additional fee to direct patients for supplies, medications, and specific vaccines provided to direct patients that are specifically excluded under the agreement, provided the direct practice notifies the direct patient of the additional charge, prior to their administration or delivery.

Passed by the House March 5, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 127

[Substitute House Bill 1512]

WATER PURVEYORS—FIRE SUPPRESSION WATER FACILITIES

AN ACT Relating to fire suppression water facilities and services provided by municipal and other water purveyors; and adding a new chapter to Title 70 RCW.

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

NEW SECTION. Sec. 1. FINDINGS AND DECLARATION OF PURPOSE. (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, 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.

NEW SECTION. Sec. 2. DEFINITIONS. 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, inerties, 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).

NEW SECTION. Sec. 3. COST ALLOCATION AND RECOVERY. A purveyor may allocate and recover the costs of fire suppression water facilities and services from all customers as costs of complying with state laws and regulations, or from customers based on service to, benefits conferred upon, and burdens and impacts caused by various classes of customers, or both.

NEW SECTION. Sec. 4. CONTRACTS TO PROVIDE FOR FACILITIES AND SERVICES. A city, town, or county may contract with purveyors for the provision of fire suppression water facilities, services, or both. The contract may take the form of a franchise agreement, an interlocal agreement pursuant to chapter 39.34 RCW, or an agreement under other contracting authority, and may provide for funding or cost recovery of fire suppression water facilities, services, or both, as the parties may agree.

NEW SECTION. Sec. 5. PAYMENT BY COUNTIES. 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 section 4 of this chapter.

NEW SECTION. Sec. 6. LIABILITY PROTECTION FOR FIRE SUPPRESSION WATER FACILITIES AND SERVICES. (1) A purveyor that is a municipal corporation is not liable for any damages that arise out of a fire event and relate to the operation, maintenance, and provision of fire suppression water facilities and services that are located within or outside its corporate boundaries.

(2) A purveyor that is not a municipal corporation is not liable for any damages that arise out of a fire event and relate to the operation, maintenance, and provision of fire suppression water facilities and services if the purveyor has a description of fire hydrant maintenance measures. The description of fire hydrant maintenance measures must be kept on file by the water purveyor and be available to the public, and may be included within the purveyor's most recently approved water system plan or small water system management program.

(3) Consistent with RCW 36.55.060, with respect to counties and notwithstanding the provisions of subsections (1) and (2) of this section, agreements or franchises may, as the parties mutually agree, include indemnification, hold harmless, or other risk management provisions under which purveyors indemnify and hold harmless cities, towns, and counties against damages arising from fire suppression activities during fire events. Such provisions are unaffected by subsections (1) and (2) of this section.

NEW SECTION. Sec. 7. LIBERAL CONSTRUCTION. This chapter is exempted from the rule of strict construction and must be liberally construed to give full effect to the objectives and purposes for which it was enacted.

NEW SECTION. Sec. 8. POWERS CONFERRED BY CHAPTER ARE SUPPLEMENTAL. (1) The powers and authority conferred by this chapter are supplemental to powers and authority conferred by other law, and nothing contained in this chapter may be construed as limiting any other powers or authority of any municipal corporation or other entity under applicable law.

(2) As to water companies that are regulated by the utilities and transportation commission under Title 80 RCW, nothing in this chapter is intended to change or limit the authority or jurisdiction of the utilities and transportation commission.

NEW SECTION. Sec. 9. RATIFICATION OF PRIOR ACTS. To the extent that they provide for or address funding, cost allocation, and recovery of fire suppression water facilities and services, all ordinances, resolutions, and contracts adopted, entered, implemented, or performed prior to the effective date of this section are hereby validated, ratified, and confirmed. This chapter must not affect or impair any ordinance, resolution, or contract lawfully entered into prior to the effective date of this section.

NEW SECTION. Sec. 10. CODIFICATION. Sections 1 through 9 of this act constitute a new chapter in Title 70 RCW.

Passed by the House March 4, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 128

[Engrossed Substitute House Bill 1515]

MEDICAL ASSISTANTS

AN ACT Relating to medical assistants; amending RCW 18.360.005, 18.360.040, 18.360.050, 18.360.060, and 18.360.080; creating a new section; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 18.360.005 and 2012 c 153 s 1 are each amended to read as follows:

The legislature finds that medical assistants are health professionals specifically trained to work in settings such as physicians' offices, clinics, group practices, and other health care facilities. These multiskilled personnel are trained to perform administrative and clinical procedures under the supervision of health care providers. Physicians value this unique versatility more and more because of the skills of medical assistants and their ability to contain costs and manage human resources efficiently. The demand for medical assistants is expanding rapidly. The efficient and effective delivery of health care in Washington will be improved by recognizing the valuable contributions of medical assistants, and providing statutory support for medical assistants in Washington state. The legislature intends that individuals performing specialized functions be trained and supervised in a manner that will not pose an undue risk to patient safety. The legislature further finds that rural and small medical practices and clinics may have limited access to formally trained medical assistants. The legislature further intends that the secretary of health develop recommendations for a career ladder that includes medical assistants.

Sec. 2. RCW 18.360.040 and 2012 c 153 s 5 are each amended to read as follows:

(1)(a) The secretary shall issue a certification as a medical assistant-certified to any person who has satisfactorily completed a medical assistant training program approved by the secretary, passed an examination approved by the secretary, and met any additional qualifications established under RCW 18.360.030.

(b) The secretary shall issue an interim certification to any person who has met all of the qualifications in (a) of this subsection, except for the passage of the examination. A person holding an interim permit possesses the full scope of practice of a medical assistant-certified. The interim permit expires upon passage of the examination or after one year, whichever occurs first, and may not be renewed.

(2) The secretary shall issue a certification as a medical assistant-hemodialysis technician to any person who meets the qualifications for a medical assistant-hemodialysis technician established under RCW 18.360.030.

(3) The secretary shall issue a certification as a medical assistant-phlebotomist to any person who meets the qualifications for a medical assistant-phlebotomist established under RCW 18.360.030.

(4)(a) The secretary shall issue a registration as a medical assistant-registered to any person who has a current endorsement from a health care practitioner, clinic, or group practice.

(b) In order to be endorsed under this subsection (4), a person must:

(i) Be endorsed by a health care practitioner, clinic, or group practice that meets the qualifications established under RCW 18.360.030; and

(ii) Have a current attestation of his or her endorsement to perform specific medical tasks signed by a supervising health care practitioner filed with the department. A medical assistant-registered may only perform the medical tasks listed in his or her current attestation of endorsement.

(c) A registration based on an endorsement by a health care practitioner, clinic, or group practice is not transferrable to another health care practitioner, clinic, or group practice.

(d) An applicant for registration as a medical assistant-registered who applies to the department within seven days of employment by the endorsing health care practitioner, clinic, or group practice may work as a medical assistant-registered for up to sixty days while the application is processed. The applicant must stop working on the sixtieth day of employment if the registration has not been granted for any reason.

(5) A certification issued under subsections (1) through (3) of this section is transferrable between different practice settings.

Sec. 3. RCW 18.360.050 and 2012 c 153 s 6 are each amended to read as follows:

(1) A medical assistant-certified may perform the following duties delegated by, and under the supervision of, a health care practitioner:

(a) Fundamental procedures:

(i) Wrapping items for autoclaving;

(ii) Procedures for sterilizing equipment and instruments;

(iii) Disposing of biohazardous materials; and

(iv) Practicing standard precautions.

(b) Clinical procedures:

(i) Performing aseptic procedures in a setting other than a hospital licensed under chapter 70.41 RCW;

(ii) Preparing of and assisting in sterile procedures in a setting other than a hospital under chapter 70.41 RCW;

(iii) Taking vital signs;

(iv) Preparing patients for examination;

(v) Capillary blood withdrawal, venipuncture, and intradermal, subcutaneous, and intramuscular injections; and

(vi) Observing and reporting patients' signs or symptoms.

(c) Specimen collection:

(i) Capillary puncture and venipuncture;

(ii) Obtaining specimens for microbiological testing; and

(iii) Instructing patients in proper technique to collect urine and fecal specimens.

(d) Diagnostic testing:

(i) Electrocardiography;

(ii) Respiratory testing; and

(iii)(A) Tests waived under the federal clinical laboratory improvement amendments program on July 1, 2013. The department shall periodically update the tests authorized under this subsection (1)(d) based on changes made by the federal clinical laboratory improvement amendments program; and

(B) Moderate complexity tests if the medical assistant-certified meets standards for personnel qualifications and responsibilities in compliance with federal regulation for nonwaived testing.

(e) Patient care:

(i) Telephone and in-person screening limited to intake and gathering of information without requiring the exercise of judgment based on clinical knowledge;

(ii) Obtaining vital signs;

(iii) Obtaining and recording patient history;

(iv) Preparing and maintaining examination and treatment areas;

(v) Preparing patients for, and assisting with, routine and specialty examinations, procedures, treatments, and minor office surgeries;

(vi) Maintaining medication and immunization records; and

(vii) Screening and following up on test results as directed by a health care practitioner.

(f)(i) Administering medications. A medical assistant-certified may only administer medications if the drugs are:

(A) Administered only by unit or single dosage, or by a dosage calculated and verified by a health care practitioner. For purposes of this section, a combination or multidose vaccine shall be considered a unit dose;

(B) Limited to legend drugs, vaccines, and Schedule III-V controlled substances as authorized by a health care practitioner under the scope of his or her license and consistent with rules adopted by the secretary under (f)(ii) of this subsection; and

(C) Administered pursuant to a written order from a health care practitioner.

(ii) A medical assistant-certified may not administer experimental drugs or chemotherapy agents. The secretary may, by rule, further limit the drugs that may be administered under this subsection (1)(f). The rules adopted under this subsection must limit the drugs based on risk, class, or route.

(g) Intravenous injections. A medical assistant-certified may administer intravenous injections for diagnostic or therapeutic agents under the direct visual supervision of a health care practitioner if ((he or she)) the medical assistant-certified meets minimum standards established by the secretary in rule. The minimum standards must be substantially similar to the qualifications for category D and F health care assistants as they exist on July 1, 2013.

(h) Urethral catheterization when appropriately trained.

(2) A medical assistant-hemodialysis technician may perform hemodialysis when delegated and supervised by a health care practitioner. A medical assistant-hemodialysis technician may also administer drugs and oxygen to a patient when delegated and supervised by a health care practitioner and pursuant to rules adopted by the secretary.

(3) A medical assistant-phlebotomist may perform capillary, venous, or arterial invasive procedures for blood withdrawal when delegated and supervised by a health care practitioner and pursuant to rules adopted by the secretary.

(4) A medical assistant-registered may perform the following duties delegated by, and under the supervision of, a health care practitioner:

(a) Fundamental procedures:

(i) Wrapping items for autoclaving;

- (ii) Procedures for sterilizing equipment and instruments;
- (iii) Disposing of biohazardous materials; and
- (iv) Practicing standard precautions.
- (b) Clinical procedures:
 - (i) Preparing for sterile procedures;
 - (ii) Taking vital signs;
 - (iii) Preparing patients for examination; and
 - (iv) Observing and reporting patients' signs or symptoms.
- (c) Specimen collection:
 - (i) Obtaining specimens for microbiological testing; and
 - (ii) Instructing patients in proper technique to collect urine and fecal specimens.
- (d) Patient care:
 - (i) Telephone and in-person screening limited to intake and gathering of information without requiring the exercise of judgment based on clinical knowledge;
 - (ii) Obtaining vital signs;
 - (iii) Obtaining and recording patient history;
 - (iv) Preparing and maintaining examination and treatment areas;
 - (v) Preparing patients for, and assisting with, routine and specialty examinations, procedures, treatments, and minor office surgeries utilizing no more than local anesthetic. The department may, by rule, prohibit duties authorized under this subsection (4)(d)(v) if performance of those duties by a medical assistant-registered would pose an unreasonable risk to patient safety;
 - (vi) Maintaining medication and immunization records; and
 - ~~((vi))~~ (vii) Screening and following up on test results as directed by a health care practitioner.
- (e) (i) Tests waived under the federal clinical laboratory improvement amendments program on July 1, 2013. The department shall periodically update the tests authorized under subsection (1)(d) of this section based on changes made by the federal clinical laboratory improvement amendments program.
- (ii) Moderate complexity tests if the medical assistant-registered meets standards for personnel qualifications and responsibilities in compliance with federal regulation for nonwaived testing.
- (f) Administering eye drops, topical ointments, and vaccines, including combination or multidose vaccines.
- (g) Urethral catheterization when appropriately trained.

Sec. 4. RCW 18.360.060 and 2012 c 153 s 7 are each amended to read as follows:

(1) Prior to delegation of any of the functions in RCW 18.360.050, a health care practitioner shall determine to the best of his or her ability each of the following:

- (a) That the task is within that health care practitioner's scope of licensure or authority;
- (b) That the task is indicated for the patient;
- (c) The appropriate level of supervision;
- (d) That no law prohibits the delegation;
- (e) That the person to whom the task will be delegated is competent to perform that task; and

(f) That the task itself is one that should be appropriately delegated when considering the following factors:

(i) That the task can be performed without requiring the exercise of judgment based on clinical knowledge;

(ii) That results of the task are reasonably predictable;

(iii) That the task can be performed without a need for complex observations or critical decisions;

(iv) That the task can be performed without repeated clinical assessments; and

(v)(A) For a medical assistant other than a medical assistant-hemodialysis technician, that the task, if performed improperly, would not present life-threatening consequences or the danger of immediate and serious harm to the patient; and

(B) For a medical assistant-hemodialysis technician, that the task, if performed improperly, is not likely to present life-threatening consequences or the danger of immediate and serious harm to the patient.

(2) Nothing in this section prohibits the use of protocols that do not involve clinical judgment and do not involve the administration of medications, other than vaccines.

Sec. 5. RCW 18.360.080 and 2012 c 153 s 9 are each amended to read as follows:

(1) The department may not issue new certifications for category C, D, E, or F health care assistants on or after July 1, 2013. The department shall certify a category C, D, E, or F health care assistant whose certification is in good standing and who was certified prior to July 1, 2013, as a medical assistant-certified when he or she renews his or her certification.

(2) The department may not issue new certifications for category G health care assistants on or after July 1, 2013. The department shall certify a category G health care assistant whose certification is in good standing and who was certified prior to July 1, 2013, as a medical assistant-hemodialysis technician when he or she renews his or her certification.

(3) The department may not issue new certifications for category A or B health care assistants on or after July 1, 2013. The department shall certify a category A or B health care assistant whose certification is in good standing and who was certified prior to July 1, 2013, as a medical assistant-phlebotomist when he or she renews his or her certification.

NEW SECTION. Sec. 6. The department of health may delay the implementation of the medical assistant-registered credential to the extent necessary to comply with this act.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2013.

Passed by the House March 11, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 129

[House Bill 1534]

DENTISTRY—IMPAIRED DENTIST PROGRAM—SURCHARGE

AN ACT Relating to the license surcharge for the impaired dentist program; and amending RCW 18.32.534.

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

Sec. 1. RCW 18.32.534 and 1999 c 179 s 1 are each amended to read as follows:

(1) To implement an impaired dentist program as authorized by RCW 18.130.175, the commission shall enter into a contract with a voluntary substance abuse monitoring program. The impaired dentist program may include any or all of the following:

- (a) Contracting with providers of treatment programs;
- (b) Receiving and evaluating reports of suspected impairment from any source;
- (c) Intervening in cases of verified impairment;
- (d) Referring impaired dentists to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired dentists including those ordered by the commission;
- (f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired dentists; and
- (g) Performing other related activities as determined by the commission.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to (~~twenty-five~~) fifty dollars on each license issuance or renewal to be collected by the department of health from every dentist licensed under chapter 18.32 RCW. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired dentist program.

Passed by the House March 11, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 130

[House Bill 1547]

CHILD CARE—RECREATIONAL OR EDUCATIONAL DROP-IN PROGRAMS

AN ACT Relating to an entity that provides drop-in educational or recreational programming for school-aged children; and reenacting and amending RCW 43.215.010.

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

Sec. 1. RCW 43.215.010 and 2011 c 295 s 3 and 2011 c 78 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) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child day care provider who regularly provides child day care and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection ~~((2)(a))~~, even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing child care for periods of less than twenty-four hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:

(i) Activities other than employment; or

(ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;

~~(i) ((Any agency having been in operation in this state ten years before June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;))~~ Any entity that provides recreational or educational programming for school-aged children only and the entity meets all of the following requirements:

(i) The entity utilizes a drop-in model for programming, where children are able to attend during any or all program hours without a formal reservation;

(ii) The entity does not assume responsibility in lieu of the parent, unless for coordinated transportation;

(iii) The entity is a local affiliate of a national nonprofit; and

(iv) The entity is in compliance with all safety and quality standards set by the associated national agency;

(j) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(l) An agency that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(5) "Department" means the department of early learning.

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

(7) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(8) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

(9) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

(10) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

(11) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(12) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

Passed by the House April 18, 2013.

Passed by the Senate April 12, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 131

[House Bill 1576]

COUNTY ASSESSORS—ELECTRONIC NOTICE

AN ACT Relating to creating greater efficiency in the offices of county assessors by allowing notification via electronic means; and adding a new section to chapter 84.09 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 84.09 RCW to read as follows:

(1) Whenever the assessor is required by the provisions of this title to send any assessment, notice, or any other information to persons by regular mail, the assessor may instead provide the assessment, notice, or other information electronically if the following conditions are met:

(a) The person entitled to receive the information has authorized the assessor, electronically or otherwise, to provide the assessment, notice, or other information electronically; and

(b) If the assessment, notice, or other information is subject to the confidentiality provisions of RCW 82.32.330, 84.08.210, or 84.40.340, the assessor must use methods reasonably designed to protect the information from unauthorized disclosure. The provisions of this subsection (1)(b) may be waived by a taxpayer. The waiver must be in writing and may be provided to the assessor electronically. A waiver continues until revoked in writing by the taxpayer. Such revocation may be provided to the assessor electronically in a manner provided or approved by the assessor.

(2) Electronic notice pursuant to this section will continue until revoked in writing by the taxpayer. Such revocation may be provided to the assessor electronically in a manner provided or approved by the assessor.

(3) Electronic transmittal may be by electronic mail or other electronic means reasonably calculated to apprise the person of the information that is being provided.

(4) Any assessment, notice, or other information provided by the assessor to a person is deemed to have been mailed by the assessor and received by the person on the date that the assessor electronically sends the information to the person or electronically notifies the person that the information is available to be accessed by the person.

(5) This section also applies to information that is not expressly required by statute to be sent by regular mail, but is customarily sent by the assessor using regular mail, to persons entitled to receive the information.

(6) Information compiled or possessed by the assessor for the purposes of providing notice under this title, including but not limited to taxpayer e-mail addresses, waivers, waiver requests, waiver revocations, and passwords or other methods of protecting taxpayer information as required in subsection (1)(b) of this section, are not subject to disclosure under chapter 42.56 RCW.

Passed by the House March 4, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 132

[House Bill 1738]

PURCHASING—MUNICIPALITIES

AN ACT Relating to authorized purchases by political subdivisions; and amending RCW 39.32.090.

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

Sec. 1. RCW 39.32.090 and 1945 c 88 s 1 are each amended to read as follows:

Whenever authorized by ordinance or resolution of its legislative authority any political subdivision of the state shall have power to purchase supplies, materials, electronic data processing and telecommunication equipment, software, services, and/or equipment from or through the United States government without calling for bids, notwithstanding any law or charter provision to the contrary.

Passed by the House March 13, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 133

[Engrossed House Bill 1808]

PHARMACIES—MARIJUANA—NOTIFICATION AND DISPOSAL

AN ACT Relating to the proper disposal of legal amounts of marijuana inadvertently left at retail stores holding a pharmacy license; and adding a new section to chapter 69.50 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Upon finding one ounce or less of marijuana inadvertently left at a retail store holding a pharmacy license, the store manager or employee must promptly notify the local law enforcement agency. After notification to the local law enforcement agency, the store manager or employee must properly dispose of the marijuana.

(2) For the purposes of this section, "properly dispose" means ensuring that the product is destroyed or rendered incapable of use by another person.

Passed by the House April 18, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 134

[House Bill 1863]

DEPARTMENT OF LABOR AND INDUSTRIES—SCHOLARSHIP OPPORTUNITIES

AN ACT Relating to allowing the department of labor and industries to provide information about scholarships available to children and spouses of certain injured or deceased workers; adding a new section to chapter 42.52 RCW; and adding a new section to chapter 51.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 42.52 RCW to read as follows:

This chapter does not prohibit the department of labor and industries from providing information about scholarship opportunities offered by nonprofit organizations and available to children and spouses of workers who suffered an injury in the course of employment resulting in death or permanent total disability. The department of labor and industries may, in its sole discretion, provide information about one or more scholarship opportunities. The cost of printing and inserting materials, any additional mailing costs, and any other related costs must be borne by the scholarship organization.

NEW SECTION. Sec. 2. A new section is added to chapter 51.04 RCW to read as follows:

The department may provide information about scholarship opportunities offered by nonprofit organizations and available to children and spouses of workers who suffered an injury in the course of employment resulting in death or permanent total disability. The department may, in its sole discretion, provide information about one or more scholarship opportunities. The cost of printing and inserting materials, any additional mailing costs, and any other related costs must be borne by the scholarship organization.

Passed by the House March 5, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 135

[Engrossed Substitute House Bill 1944]

VEHICLE LICENSE PLATES—REGISTRATION—FRAUD

AN ACT Relating to vehicle license plate and registration fraud; reenacting and amending RCW 46.63.020; adding a new section to chapter 46.37 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.37 RCW to read as follows:

(1)(a) It is unlawful for a person to display a license plate on a vehicle that does not match or correspond with the registration of the vehicle unless the vehicle is inventory for a properly licensed vehicle dealer.

(b) It is unlawful for a person to have an installed license plate flipping device on a vehicle, use technology to flip a license plate on a vehicle, or use technology to change the appearance of a license plate on a vehicle.

(c) It is unlawful for a person or entity to sell a license plate flipping device or sell technology that will change the appearance of a license plate in the state of Washington.

(d) For purposes of this section, "license plate flipping device" means a device that enables a license plate on a vehicle to be changed to another license plate either manually or electronically. "License plate flipping device" includes technology that is capable of changing the appearance of a license plate to appear as a different license plate.

(2) A person who switches or flips license plates on a vehicle physically, utilizes technology to flip or change the appearance of a license plate on a vehicle, sells a license plate flipping device or technology that will change the appearance of a license plate, or falsifies a vehicle registration in violation of this section, in addition to any traffic infraction, is guilty of a gross misdemeanor punishable by confinement of up to three hundred sixty-four days in the county jail and a fine of one thousand dollars for the first offense, two thousand five hundred dollars for a second offense, and five thousand dollars for any subsequent offense, which may not be suspended, deferred, or reduced.

(3) A vehicle that is found with an installed license plate flipping device or technology to change the appearance of a license plate may be impounded by a law enforcement officer as evidence.

(4) Citizens are encouraged to notify law enforcement immediately if they observe a vehicle with a license plate flipping device.

Sec. 2. RCW 46.63.020 and 2010 c 252 s 3, 2010 c 161 s 1125, and 2010 c 8 s 9077 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.470(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.480 relating to operation of nonhighway vehicles;

(3) RCW 46.10.490(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.495 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of title, registration certificates, and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16A.030 and 46.16A.050(3) relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16A.520 relating to permitting unauthorized persons to drive;

(8) RCW 46.16A.320 relating to vehicle trip permits;

(9) RCW 46.19.050 relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to circumventing an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.35.030 relating to recording device information;

(22) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(23) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(24) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

(25) Section 1 of this act relating to switching or flipping license plates, utilizing technology to flip or change the appearance of a license plate, selling a license plate flipping device or technology used to change the appearance of a license plate, or falsifying a vehicle registration;

(26) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

((26)) (27) RCW 46.48.175 relating to the transportation of dangerous articles;

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

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

((29)) (30) RCW 46.52.090 relating to reports by repairers, storage persons, and appraisers;

~~((30))~~ (31) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

~~((31))~~ (32) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

~~((32))~~ (33) RCW 46.55.035 relating to prohibited practices by tow truck operators;

~~((33))~~ (34) RCW 46.55.300 relating to vehicle immobilization;

~~((34))~~ (35) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

~~((35))~~ (36) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((36))~~ (37) RCW 46.61.022 relating to failure to stop and give identification to an officer;

~~((37))~~ (38) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

~~((38))~~ (39) RCW 46.61.212(4) relating to reckless endangerment of emergency zone workers;

~~((39))~~ (40) RCW 46.61.500 relating to reckless driving;

~~((40))~~ (41) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((41))~~ (42) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

~~((42))~~ (43) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((43))~~ (44) RCW 46.61.522 relating to vehicular assault;

~~((44))~~ (45) RCW 46.61.5249 relating to first degree negligent driving;

~~((45))~~ (46) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

~~((46))~~ (47) RCW 46.61.530 relating to racing of vehicles on highways;

~~((47))~~ (48) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

~~((48))~~ (49) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((49))~~ (50) RCW 46.61.740 relating to theft of motor vehicle fuel;

~~((50))~~ (51) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((51))~~ (52) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((52))~~ (53) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((53))~~ (54) RCW 46.68.010 relating to false statements made to obtain a refund;

~~((54))~~ (55) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((55))~~ (56) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((56))~~ (57) RCW 46.72A.060 relating to limousine carrier insurance;

~~((57))~~ (58) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

~~((58))~~ (59) RCW 46.72A.080 relating to false advertising by a limousine carrier;

~~((59))~~ (60) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((60))~~ (61) Chapter 46.82 RCW relating to driver's training schools;

~~((61))~~ (62) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((62))~~ (63) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Passed by the House March 9, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 136

[Substitute House Bill 1982]

LOTTERY GAMES—ELIMINATION

AN ACT Relating to eliminating lottery games that generate insufficient net revenue; amending RCW 67.70.240; and repealing RCW 67.70.500.

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

Sec. 1. RCW 67.70.240 and 2011 c 352 s 3 are each amended to read as follows:

~~(1)~~ The moneys in the state lottery account ~~((shall))~~ may be used only:

~~((1))~~ (a) For the payment of prizes to the holders of winning lottery tickets or shares;

~~((2))~~ (b) For purposes of making deposits into the reserve account created by RCW 67.70.250 and into the lottery administrative account created by RCW 67.70.260;

~~((3))~~ (c) For purposes of making deposits into the ~~((education construction fund created in RCW 43.135.045 and the))~~ Washington opportunity pathways account created in RCW 28B.76.526. ~~((On and after July 1, 2010, all deposits not otherwise obligated under this section shall be placed in the Washington opportunity pathways account.))~~ Moneys in the state lottery account deposited in the Washington opportunity pathways account are included in "general state revenues" under RCW 39.42.070;

~~((4))~~ For distribution to a county for the purpose of paying the principal and interest payments on bonds issued by the county to construct a baseball stadium, as defined in RCW 82.14.0485, including reasonably necessary preconstruction costs. Three million dollars shall be distributed under this subsection during calendar year 1996. During subsequent years, such distributions shall equal the prior year's distributions increased by four percent. Distributions under this subsection shall cease when the bonds issued for the construction of the baseball stadium are retired, but not more than twenty years after the tax under RCW 82.14.0485 is first imposed;

~~(5))~~ (d) For distribution to the stadium and exhibition center account, created in RCW 43.99N.060. Subject to the conditions of RCW 43.99N.070, six million dollars (~~(shall)~~) must be distributed under this subsection during the calendar year 1998. During subsequent years, such distribution (~~(shall)~~) must equal the prior year's distributions increased by four percent. No distribution may be made under this subsection after December 31, 1999, unless the conditions for issuance of the bonds under RCW 43.99N.020(2) are met. Distributions under this subsection (~~(shall)~~) must cease when the bonds are retired, but not later than December 31, 2020;

~~((6) For transfer to the veterans innovations program account. The net revenues received from the sale of the annual Veteran's Day lottery raffle conducted under RCW 67.70.500 must be deposited into the veterans innovations program account created in RCW 43.60A.185 for purposes of serving veterans and their families. For purposes under this subsection, "net revenues" means all revenues received from the sale of veteran lottery raffle tickets less the sum of the amount paid out in prizes and the actual administration expenses of the lottery solely related to the veteran lottery raffle;~~

~~(7))~~ (e) For the purchase and promotion of lottery games and game-related services; and

~~((8))~~ (f) For the payment of agent compensation.

(2) The office of financial management shall require the allotment of all expenses paid from the account and shall report to the ways and means committees of the senate and house of representatives any changes in the allotments.

NEW SECTION. Sec. 2. RCW 67.70.500 (Veteran lottery raffle—Created) and 2012 c 43 s 1 & 2011 c 352 s 2 are each repealed.

Passed by the House April 16, 2013.

Passed by the Senate April 28, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 137

[Senate Bill 5161]

VEHICLE LICENSE PLATES—GOLDSTAR LICENSE PLATES

AN ACT Relating to gold star license plates; amending RCW 46.18.245; and providing an effective date.

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

Sec. 1. RCW 46.18.245 and 2010 c 161 s 621 are each amended to read as follows:

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

(a) Be a resident of this state;

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

(i) A widow;

(ii) A widower;

(iii) A biological parent;

(iv) An adoptive parent;

(v) A stepparent;

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

(vii) A biological child; or

(viii) An adopted child;

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

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

~~((d))~~ (e) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Gold star license plates must be issued:

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

(b) Without payment of any license plate fee.

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

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

NEW SECTION. Sec. 2. This act takes effect August 1, 2013.

Passed by the Senate April 19, 2013.

Passed by the House April 9, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 138

[Senate Bill 5258]

POLITICAL ADVERTISEMENTS—SPONSOR IDENTIFICATION REQUIREMENTS

AN ACT Relating to aggregating the cost of related ballot measure advertisements for purposes of top five sponsor identification requirements; and amending RCW 42.17A.320.

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

Sec. 1. RCW 42.17A.320 and 2012 c 226 s 1 are each amended to read as follows:

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name for the sponsor of electioneering communications, independent expenditures, or political advertising shall be unlawful. For partisan office, if a candidate has expressed a party or independent preference on the declaration of candidacy, that party or independent designation shall be clearly identified in electioneering communications, independent expenditures, or political advertising.

(2) In addition to the information required by subsection (1) of this section, except as specifically addressed in subsections (4) and (5) of this section, all political advertising undertaken as an independent expenditure or an electioneering communication by a person or entity other than a bona fide political party must include as part of the communication:

(a) The statement: "No candidate authorized this ad. It is paid for by (name, address, city, state)";

(b) If the sponsor is a political committee, the statement: "Top Five Contributors," followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period before the date of the advertisement or communication; and

(c) If the sponsor is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity.

(3) The information required by subsections (1) and (2) of this section shall:

(a) Appear on the first page or fold of the written advertisement or communication in at least ten-point type, or in type at least ten percent of the largest size type used in a written advertisement or communication directed at more than one voter, such as a billboard or poster, whichever is larger;

(b) Not be subject to the half-tone or screening process; and

(c) Be set apart from any other printed matter.

(4) In an independent expenditure or electioneering communication transmitted via television or other medium that includes a visual image, the following statement must either be clearly spoken, or appear in print and be visible for at least four seconds, appear in letters greater than four percent of the visual screen height, and have a reasonable color contrast with the background: "No candidate authorized this ad. Paid for by (name, city, state)." If the advertisement or communication is undertaken by a nonindividual other than a party organization, then the following notation must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period preceding the date on which the advertisement is initially published or otherwise presented to the public. Abbreviations may be used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(5) The following statement shall be clearly spoken in an independent expenditure or electioneering communication transmitted by a method that does not include a visual image: "No candidate authorized this ad. Paid for by (name, city, state)." If the independent expenditure or electioneering communication is undertaken by a nonindividual other than a party organization, then the following statement must also be included: "Top Five Contributors" followed by a listing of the names of the five persons or entities making the largest contributions in excess of seven hundred dollars reportable under this chapter during the twelve-month period preceding the date on which the advertisement is initially published or otherwise presented to the public. Abbreviations may be

used to describe contributing entities if the full name of the entity has been clearly spoken previously during the broadcast advertisement.

(6) Political advertising costing one thousand dollars or more supporting or opposing ballot measures sponsored by a political committee must include the information on the "Top Five Contributors" consistent with subsections (2), (4), and (5) of this section. A series of political advertising sponsored by the same political committee, each of which is under one thousand dollars, must include the "Top Five Contributors" information required by this section once their cumulative value reaches one thousand dollars or more.

(7) Political yard signs are exempt from the requirements ~~((of subsections (1) and (2)))~~ of this section that the sponsor's name and address ~~((of the sponsor of political advertising be listed))~~, and "Top Five Contributor" information, be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of ~~((subsections (1) and (2) of))~~ this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(8) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Passed by the Senate March 1, 2013.

Passed by the House April 15, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 139

[Substitute Senate Bill 5263]

MOTORCYCLES—PASSING PEDESTRIANS AND BICYCLISTS

AN ACT Relating to motorcycles overtaking and passing pedestrians and bicyclists; and amending RCW 46.61.608.

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

Sec. 1. RCW 46.61.608 and 1975 c 62 s 46 are each amended to read as follows:

(1) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.

(2) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken. However, this subsection shall not apply when the operator of a motorcycle overtakes and passes a pedestrian or bicyclist while maintaining a safe passing distance of at least three feet.

(3) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(4) Motorcycles shall not be operated more than two abreast in a single lane.

(5) Subsections (2) and (3) of this section shall not apply to police officers in the performance of their official duties.

Passed by the Senate February 25, 2013.

Passed by the House April 17, 2013.

Approved by the Governor May 3, 2013.
 Filed in Office of Secretary of State May 3, 2013.

CHAPTER 140

[Substitute Senate Bill 5264]

EXPLOSIVE DEVICES—TRANSPORTATION AND STORAGE

AN ACT Relating to the transportation and storage of certain explosive devices; and amending RCW 70.74.191.

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

Sec. 1. RCW 70.74.191 and 2002 c 370 s 2 are each amended to read as follows:

The laws contained in this chapter and regulations prescribed by the department of labor and industries pursuant to this chapter shall not apply to:

(1) Explosives or blasting agents in the course of transportation by way of railroad, water, highway, or air under the jurisdiction of, and in conformity with, regulations adopted by the federal department of transportation, the Washington state utilities and transportation commission, and the Washington state patrol;

(2) The laboratories of schools, colleges, and similar institutions if confined to the purpose of instruction or research and if not exceeding the quantity of one pound;

(3) Explosives in the forms prescribed by the official United States Pharmacopoeia;

(4) The transportation, storage, and use of explosives or blasting agents in the normal and emergency operations of United States agencies and departments including the regular United States military departments on military reservations; arsenals, navy yards, depots, or other establishments owned by, operated by, or on behalf of, the United States; or the duly authorized militia of any state; or to emergency operations of any state department or agency, any police, or any municipality or county;

(5) A hazardous devices technician when carrying out normal and emergency operations, handling evidence, and operating and maintaining a specially designed emergency response vehicle that carries no more than ten pounds of explosive material or when conducting training and whose employer possesses the minimum safety equipment prescribed by the federal bureau of investigation for hazardous devices work. For purposes of this section, a hazardous devices technician is a person who is a graduate of the federal bureau of investigation hazardous devices school and who is employed by a state, county, or municipality;

(6) The importation, sale, possession, and use of fireworks as defined in chapter 70.77 RCW, signaling devices, flares, fuses, and torpedoes;

(7) The transportation, storage, and use of explosives or blasting agents in the normal and emergency avalanche control procedures as conducted by trained and licensed ski area operator personnel. However, the storage, transportation, and use of explosives and blasting agents for such use shall meet the requirements of regulations adopted by the director of labor and industries;

(8) The storage of consumer fireworks as defined in chapter 70.77 RCW pursuant to a forfeiture or seizure under chapter 70.77 RCW by the chief of the Washington state patrol, through the director of fire protection, or his or her

deputy, or by state agencies or local governments having general law enforcement authority; (~~and~~)

(9) The transportation and storage of explosive actuated tactical devices, including noise and flash diversionary devices, by local law enforcement tactical response teams and officers in law enforcement department-issued vehicles designated for use by tactical response teams and officers, provided the explosive devices are stored and secured in compliance with regulations and rulings adopted by the federal bureau of alcohol, tobacco, firearms and explosives; and

(10) Any violation under this chapter if any existing ordinance of any city, municipality, or county is more stringent than this chapter.

Passed by the Senate March 7, 2013.

Passed by the House April 17, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 141

[Senate Bill 5476]

INDEPENDENT CONTRACTORS—NEWS BUSINESS

AN ACT Relating to the employment status of independent contractors in the news business; amending RCW 50.04.240 and 51.12.020; and reenacting and amending RCW 49.46.010.

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

Sec. 1. RCW 49.46.010 and 2011 1st sp.s. c 43 s 462 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Employ" includes to permit to work;

(3) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesperson as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the human resources director pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-

pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement, or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor ~~((or))~~, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published;

(g) Any carrier subject to regulation by Part 1 of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(6) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry;

(7) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director.

Sec. 2. RCW 50.04.240 and 2007 c 218 s 85 are each amended to read as follows:

The term "employment" shall not include services ~~((as))~~ performed by a newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published.

Sec. 3. RCW 51.12.020 and 2009 c 162 s 33 are each amended to read as follows:

The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, or repair, in or about the private home of the employer. For the purposes of this subsection, "maintenance" means the work of keeping in proper condition, "repair" means to restore to sound condition after damage, and "private home" means a person's place of residence.

(3) A person whose employment is not in the course of the trade, business, or profession of his or her employer and is not in or about the private home of the employer.

(4) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(5) Sole proprietors or partners.

(6) Any child under eighteen years of age employed by his or her parent or parents in agricultural activities on the family farm.

(7) Jockeys while participating in or preparing horses for race meets licensed by the Washington horse racing commission pursuant to chapter 67.16 RCW.

(8)(a) Except as otherwise provided in (b) of this subsection, any bona fide officer of a corporation voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation, who at all times during the period involved is also a bona fide director, and who is also a shareholder of the corporation. Only such officers who exercise substantial control in the daily management of the corporation and whose primary responsibilities do not include the performance of manual labor are included within this subsection.

(b) Alternatively, a corporation that is not a "public company" as defined in RCW 23B.01.400(~~((24))~~) may exempt eight or fewer bona fide officers, who are voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation and who exercise substantial control in the daily management of the corporation, from coverage under this title

without regard to the officers' performance of manual labor if the exempted officer is a shareholder of the corporation, or may exempt any number of officers if all the exempted officers are related by blood within the third degree or marriage. If a corporation that is not a "public company" elects to be covered under subsection (8)(a) of this section, the corporation's election must be made on a form prescribed by the department and under such reasonable rules as the department may adopt.

(c) Determinations respecting the status of persons performing services for a corporation shall be made, in part, by reference to Title 23B RCW and to compliance by the corporation with its own articles of incorporation and bylaws. For the purpose of determining coverage under this title, substance shall control over form, and mandatory coverage under this title shall extend to all workers of this state, regardless of honorary titles conferred upon those actually serving as workers.

(d) A corporation may elect to cover officers who are exempted by this subsection in the manner provided by RCW 51.12.110.

(9) Services rendered by a musician or entertainer under a contract with a purchaser of the services, for a specific engagement or engagements when such musician or entertainer performs no other duties for the purchaser and is not regularly and continuously employed by the purchaser. A purchaser does not include the leader of a group or recognized entity who employs other than on a casual basis musicians or entertainers.

(10) Services performed by a newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published.

(11) Services performed by an insurance producer, as defined in RCW 48.17.010(~~(5)~~), or a surplus line broker licensed under chapter 48.15 RCW.

(12) Services performed by a booth renter. However, a person exempted under this subsection may elect coverage under RCW 51.32.030.

(13) Members of a limited liability company, if either:

(a) Management of the company is vested in its members, and the members for whom exemption is sought would qualify for exemption under subsection (5) of this section were the company a sole proprietorship or partnership; or

(b) Management of the company is vested in one or more managers, and the members for whom the exemption is sought are managers who would qualify for exemption under subsection (8) of this section were the company a corporation.

Passed by the Senate March 8, 2013.

Passed by the House April 17, 2013.

Approved by the Governor May 3, 2013.

Filed in Office of Secretary of State May 3, 2013.

CHAPTER 142

[House Bill 1175]

SUPERIOR COURT JUDGES—FRANKLIN AND BENTON COUNTIES

AN ACT Relating to increasing the number of superior court judges in Benton and Franklin counties jointly; amending RCW 2.08.064; and creating a new section.

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

Sec. 1. RCW 2.08.064 and 2006 c 20 s 1 are each amended to read as follows:

There shall be in the counties of Benton and Franklin jointly, ~~((six))~~ seven judges of the superior court; in the county of Clallam, three judges of the superior court; in the county of Jefferson, one judge of the superior court; in the county of Snohomish, fifteen judges of the superior court; in the counties of Asotin, Columbia and Garfield jointly, one judge of the superior court; in the county of Cowlitz, five judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court.

NEW SECTION. Sec. 2. The additional judicial position created by section 1 of this act in Benton and Franklin counties jointly becomes effective only if the counties, through their duly constituted legislative authority, 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 statute.

Passed by the House March 5, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 6, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 143

[House Bill 1474]

ELECTIONS—NONPARTISAN OFFICES

AN ACT Relating to giving general election voters the power to choose between the top two candidates for nonpartisan offices; reenacting and amending RCW 29A.36.170; and repealing RCW 29A.36.171.

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

Sec. 1. RCW 29A.36.170 and 2005 c 2 s 6 are each reenacted and amended to read as follows:

~~((4))~~ For any office for which a primary was held, only the names of the top two candidates will appear on the general election ballot; the name of the candidate who received the greatest number of votes will appear first and the candidate who received the next greatest number of votes will appear second. No candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary, if a primary was conducted. On the ballot at the general election for an office for which no primary was held, the names of the candidates shall be listed in the order determined ~~((under))~~ pursuant to RCW ((29A.36.130)) 29A.36.131.

~~((2) For the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that office or position, only the name of that candidate may be printed for that position on the ballot at the general election.))~~

NEW SECTION. Sec. 2. RCW 29A.36.171 (Nonpartisan candidates qualified for general election) and 2004 c 271 s 170 are each repealed.

Passed by the House April 22, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 144

[Substitute House Bill 1568]

BUSINESS LICENSING SERVICE PROGRAM

AN ACT Relating to the business licensing service program administered by the department of revenue; amending RCW 15.13.250, 15.13.250, 15.13.280, 15.13.290, 15.49.011, 15.49.380, 15.49.390, 15.54.275, 15.58.180, 15.58.235, 18.44.031, 18.64.044, 19.02.010, 19.02.030, 19.02.035, 19.02.070, 19.02.075, 19.02.080, 19.02.085, 19.02.090, 19.02.100, 19.02.110, 19.02.115, 19.02.210, 19.02.310, 19.02.800, 19.02.890, 19.80.010, 19.80.075, 19.94.2582, 35.21.392, 35A.21.340, 36.110.130, 43.22.035, 46.72A.020, 50.12.290, 59.30.050, 59.30.090, 69.25.050, 69.25.060, 70.290.030, 76.48.121, 82.24.510, 82.24.520, 82.26.150, 90.76.010, and 90.76.020; reenacting and amending RCW 15.58.030, 18.64.011, 19.02.020, 19.94.015, and 69.25.020; adding a new section to chapter 19.80 RCW; adding a new section to chapter 70.290 RCW; creating a new section; repealing RCW 19.02.220, 19.02.810, 19.80.065, and 43.24.160; prescribing penalties; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 15.13.250 and 2007 c 335 s 1 are each amended to read as follows:

For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or the director's duly authorized representative.

(3) "Person" means any individual, firm, partnership, corporation, company, society and association, and every officer, agent or employee thereof.

(4) "Horticultural plant" includes, but is not limited to, any horticultural, floricultural, or viticultural plant, or turf, for planting, propagation or ornamentation growing or otherwise. The term does not apply to potato, garlic, or onion planting stock or to cut plant material, except plant parts used for propagative purposes.

(5) "Horticultural facilities" means, but is not limited to, the premises where horticultural plants or Christmas trees are grown, stored, handled or delivered for sale or transportation, or where records required under this chapter are stored or kept, and all vehicles and equipment used to transport horticultural plants or Christmas trees.

(6) "Plant pests" means, but is not limited to, a living stage of insect, mite, or other arthropod; nematode; slug, snail, or other mollusk; protozoa or other invertebrate animals; bacteria; fungus; virus; viroid; phytoplasma; weed or parasitic plant; or any organisms similar to or allied with any of the plant pests listed in this section; or any infectious substance; which can directly or indirectly injure or cause disease or damage to any plant or plant product or that threatens the diversity or abundance of native species.

(7) "Inspection and/or certification" means, but is not limited to, the inspection by the director of horticultural plants or Christmas trees at any time prior to, during, or subsequent to harvest or sale and the issuance by the director

of a written certificate stating if the horticultural plants or Christmas trees are in compliance with the provisions of this chapter and rules adopted under this chapter. Inspection may include, but is not limited to, examination of horticultural plants or Christmas trees, taking samples, destructive testing, conducting interviews, taking photographs, and examining records.

(8) "Nursery dealer" means any person who sells horticultural plants or plants, grows, receives, or handles horticultural plants for the purpose of selling or planting for another person.

(9) "Sell" means to sell, hold for sale, offer for sale, handle, or to use as an inducement for the sale of another article or product.

(10) "~~((Master license))~~ Business licensing system" means the mechanism established by chapter 19.02 RCW by which ~~((master))~~ business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a ~~((master))~~ business license application and a ~~((master))~~ business license expiration date common to each renewable license endorsement.

(11) "Certificate" or "certificate of inspection" means an official document certifying compliance with the requirements of this chapter. The term "certificate" includes labels, rubber stamp imprints, tags, permits, written statements, or any other form of certification document that accompanies the movement of inspected and certified plant material, including Christmas trees.

(12) "Turf" means field-cultivated turf grass sod consisting of grass varieties, or blends of grass varieties, and dichondra for use in residential and commercial landscapes.

(13) "This chapter" means this chapter and the rules adopted under this chapter.

(14) "Compliance agreement" means a written agreement between the department and a person engaged in growing, handling, or moving articles, plants, or plant products regulated under this chapter or title, in which the person agrees to comply with stipulated requirements.

(15) "Consignor" means the person named in the invoice, bill, or other shipping document accompanying a horticultural plant as the person from whom the horticultural plant has been received for shipment.

(16) "Christmas tree" means a cut evergreen tree:

(a) Of a marketable species;

(b) Managed to produce trees meeting United States number 2 or better standards for Christmas trees as specified by the United States department of agriculture; and

(c) Evidencing periodic maintenance practices of shearing or culturing, or both; weed and brush control; and one or more of the following practices: Basal pruning, fertilization, insect and disease control, stump culture, soil cultivation, and irrigation.

(17) "Christmas tree grower" means any person who grows Christmas trees for sale.

Sec. 2. RCW 15.13.250 and 2000 c 144 s 1 are each amended to read as follows:

For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or the director's duly authorized representative.

(3) "Person" means any individual, firm, partnership, corporation, company, society and association, and every officer, agent or employee thereof.

(4) "Horticultural plant" includes, but is not limited to, any horticultural, floricultural, or viticultural plant, or turf, for planting, propagation or ornamentation growing or otherwise. The term does not apply to potato, garlic, or onion planting stock or to cut plant material, except plant parts used for propagative purposes.

(5) "Horticultural facilities" means, but is not limited to, the premises where horticultural plants are grown, stored, handled or delivered for sale or transportation, or where records required under this chapter are stored or kept, and all vehicles and equipment used to transport horticultural plants.

(6) "Plant pests" means, but is not limited to, a living stage of insect, mite, or other arthropod; nematode; slug, snail, or other mollusk; protozoa or other invertebrate animals; bacteria; fungus; virus; viroid; phytoplasma; weed or parasitic plant; or any organisms similar to or allied with any of the plant pests listed in this section; or any infectious substance; which can directly or indirectly injure or cause disease or damage to any plant or plant product or that threatens the diversity or abundance of native species.

(7) "Inspection and/or certification" means, but is not limited to, the inspection by the director of horticultural plants at any time prior to, during, or subsequent to harvest or sale and the issuance by the director of a written certificate stating if the horticultural plants are in compliance with the provisions of this chapter and rules adopted under this chapter. Inspection may include, but is not limited to, examination of horticultural plants, taking samples, destructive testing, conducting interviews, taking photographs, and examining records.

(8) "Nursery dealer" means any person who sells horticultural plants or plants, grows, receives, or handles horticultural plants for the purpose of selling or planting for another person.

(9) "Sell" means to sell, hold for sale, offer for sale, handle, or to use as an inducement for the sale of another article or product.

(10) "~~((Master license))~~ Business licensing system" means the mechanism established by chapter 19.02 RCW by which ~~((master))~~ business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a ~~((master))~~ business license application and a ~~((master))~~ business license expiration date common to each renewable license endorsement.

(11) "Certificate" or "certificate of inspection" means an official document certifying compliance with the requirements of this chapter. The term "certificate" includes labels, rubber stamp imprints, tags, permits, written statements, or any other form of certification document that accompanies the movement of inspected and certified plant material.

(12) "Turf" means field-cultivated turf grass sod consisting of grass varieties, or blends of grass varieties, and dichondra for use in residential and commercial landscapes.

(13) "This chapter" means this chapter and the rules adopted under this chapter.

(14) "Compliance agreement" means a written agreement between the department and a person engaged in growing, handling, or moving articles,

plants, or plant products regulated under this chapter or title, in which the person agrees to comply with stipulated requirements.

(15) "Consignor" means the person named in the invoice, bill, or other shipping document accompanying a horticultural plant as the person from whom the horticultural plant has been received for shipment.

Sec. 3. RCW 15.13.280 and 2000 c 144 s 6 are each amended to read as follows:

(1) No person (~~(shall)~~) may act as a nursery dealer without a license for each place of business where horticultural plants are sold except as provided in RCW 15.13.270. Any person applying for such a license (~~(shall)~~) must apply through the (~~(master license)~~) business licensing system. The application (~~(shall)~~) must be accompanied by the appropriate fee. The director (~~(shall)~~) must establish a schedule of fees for retail and wholesale nursery dealer licenses based upon the person's gross annual sales of horticultural plants at each place of business. The schedule for retail licenses (~~(shall)~~) must include separate fees for at least the following two categories:

(a) A person whose gross annual sales of horticultural plants do not exceed two thousand five hundred dollars; and

(b) A person whose gross annual sales of horticultural plants exceed two thousand five hundred dollars.

(2) A person conducting both retail and wholesale sales of horticultural plants at the same place of business (~~(shall)~~) must secure one of the following:

(a) A retail nursery dealer license if retail sales of the horticultural plants exceed such wholesale sales; or

(b) A wholesale nursery dealer license if wholesale sales of the horticultural plants exceed such retail sales.

(3) The director may issue a wholesale nursery dealer license to a person operating as a farmers market at which individual producers are selling directly to consumers. The license (~~(shall)~~) must be at the appropriate level to cover all persons selling horticultural plants at each site at which the person operates a market.

(4) The licensing fee that must accompany an application for a new license (~~(shall)~~) must be based upon the applicant's estimated gross sales of horticultural plants for the ensuing licensing year. The fee for renewing a license (~~(shall)~~) must be based upon the licensee's gross sales of these products during the preceding licensing year.

(5) The license expires on the (~~(master)~~) business license expiration date unless it has been revoked or suspended prior to the expiration date by the director for cause. Each license (~~(shall)~~) must be posted in a conspicuous place open to the public in the location for which it was issued.

(6) The department may audit licensees during normal business hours to determine that appropriate fees have been paid.

Sec. 4. RCW 15.13.290 and 2000 c 144 s 8 are each amended to read as follows:

If any application for renewal of a nursery dealer license is not filed prior to the (~~(master)~~) business license expiration date, the (~~(master)~~) business license delinquency fee (~~(shall)~~) must be assessed under chapter 19.02 RCW and (~~(shall)~~) must be paid by the applicant before the renewal license is issued.

Sec. 5. RCW 15.49.011 and 1989 c 354 s 73 are each amended to read as follows:

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

(1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this chapter.

(2) "Agricultural seed" includes grass, forage, cereal, oil, fiber, and other kinds of crop seeds commonly recognized within this state as agricultural seeds, lawn seeds, and combinations of such seeds, and may include common and restricted noxious weed seeds but not prohibited noxious weed seeds.

(3) "Blend" means seed consisting of more than one variety of a kind, each in excess of five percent by weight of the whole.

(4) "Bulk seed" means seed distributed in a nonpackage form.

(5) "Certifying agency" means (a) an agency authorized under the laws of any state, territory, or possession to certify seed officially and which has standards and procedures approved by the United States secretary of agriculture to assure the genetic purity and identity of the seed certified; or (b) an agency of a foreign country determined by the United States secretary of agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed-certifying agencies under (a) of this subsection.

(6) "Conditioning" means drying, cleaning, scarifying, and other operations that could change the purity or germination of the seed and require the seed lot to be retested to determine the label information.

(7) "Dealer" means any person who distributes.

(8) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.

(9) "Director" means the director of the department of agriculture.

(10) "Distribute" means to import, consign, offer for sale, hold for sale, sell, barter, or otherwise supply seed in this state.

(11) "Flower seeds" includes seeds of herbaceous plants grown from their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower seeds in this state.

(12) The terms "foundation seed," "registered seed," and "certified seed" mean seed that has been produced and labeled in compliance with the regulations of the department.

(13) "Germination" means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.

(14) "Hard seeds" means seeds that remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat.

(15) "Hybrid" means the first generation seed of a cross produced by controlling the pollination and by combining (a) two or more inbred lines; (b) one inbred or a single cross with an open pollinated variety; or (c) two varieties or species, except open-pollinated varieties of corn (*Zea mays*). The second generation or subsequent generations from such crosses (~~shall~~) are not (~~be~~) regarded as hybrids. Hybrid designations (~~shall~~) must be treated as variety names.

(16) "Inert matter" means all matter not seed, that includes broken seeds, sterile florets, chaff, fungus bodies, and stones as determined by methods defined by rule.

(17) "Kind" means one or more related species or subspecies that singly or collectively is known by one common name, for example, corn, oats, alfalfa, and timothy.

(18) "Label" includes a tag or other device attached to or written, stamped, or printed on any container or accompanying any lot of bulk seeds purporting to set forth the information required on the seed label by this chapter, and it may include any other information relating to the labeled seed.

(19) "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.

(20) "Lot number" (~~(shall)~~ must) identify the producer or dealer and year of production or the year distributed for each lot of seed. This requirement may be satisfied by use of a conditioner's or dealer's code.

(21) "~~(Master license)~~ Business licensing system" means the mechanism established by chapter 19.02 RCW by which (~~(master)~~ business licenses, endorsed for individual state-issued licenses, are issued and renewed using a (~~(master)~~ business license application and a (~~(master)~~ business license expiration date common to each renewable license endorsement.

(22) "Mixture," "mix," or "mixed" means seed consisting of more than one kind, each in excess of five percent by weight of the whole.

(23) "Official sample" means any sample of seed taken and designated as official by the department.

(24) "Other crop seed" means seed of plants grown as crops, other than the kind or variety included in the pure seed, as determined by methods defined by rule.

(25) "Prohibited (primary) noxious weed seeds" are the seeds of weeds which when established are highly destructive, competitive, and/or difficult to control by cultural or chemical practices.

(26) "Person" means an individual, partnership, corporation, company, association, receiver, trustee, or agent.

(27) "Pure live seed" means the product of the percent of germination plus hard or dormant seed multiplied by the percent of pure seed divided by one hundred. The result is expressed as a whole number.

(28) "Pure seed" means seed exclusive of inert matter and all other seeds not of the seed being considered as determined by methods defined by rule.

(29) "Restricted (secondary) noxious weed seeds" are the seeds of weeds which are objectionable in fields, lawns, and gardens of this state, but which can be controlled by cultural or chemical practices.

(30) "Retail" means to distribute to the ultimate consumer.

(31) "Screenings" mean chaff, seed, weed seed, inert matter, and other materials removed from seed in cleaning or conditioning.

(32) "Seed labeling registrant" means a person who has obtained a permit to label seed for distribution in this state.

(33) "Seeds" mean agricultural or vegetable seeds or other seeds as determined by rules adopted by the department.

(34) "Stop sale, use, or removal order" means an administrative order restraining the sale, use, disposition, and movement of a specific amount of seed.

(35) "Treated" means that the seed has received an application of a substance, or that it has been subjected to a process for which a claim is made.

(36) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

(37) "Variety" means a subdivision of a kind that is distinct, uniform, and stable; "distinct" in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; "uniform" in the sense that variations in essential and distinctive characteristics are describable; and "stable" in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.

(38) "Vegetable seeds" includes the seeds of those crops that are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state.

(39) "Weed seeds" include the seeds of all plants generally recognized as weeds within this state, and includes the seeds of prohibited and restricted noxious weeds as determined by regulations adopted by the department.

(40) "Inoculant" means a commercial preparation containing nitrogen fixing bacteria applied to the seed.

(41) "Coated seed" means seed that has been treated and has received an application of inert material during the treatment process.

Sec. 6. RCW 15.49.380 and 2012 c 61 s 1 are each amended to read as follows:

(1) No person (~~shall~~) may distribute seeds without having obtained a dealer's license for each regular place of business(~~(= PROVIDED, That no)~~). However, a license (~~shall be~~) is not required of a person who distributes seeds only in sealed packages of eight ounces or less, packed by a seed labeling registrant and bearing the name and address of the registrant(~~(= PROVIDED FURTHER, That)~~). Moreover, a license (~~shall not be~~) is not required of any grower selling seeds of his or her own production exclusively. Such seed sold by such grower must be properly labeled as provided in this chapter. Each dealer's license (~~shall~~) costs one hundred twenty-five dollars, (~~shall~~) must be issued through the (~~master~~) business license system, (~~shall~~) must bear the date of issue, (~~shall~~) must expire on the (~~master license~~) business licensing expiration date, and (~~shall~~) must be prominently displayed in each place of business.

(2) Persons custom conditioning and/or custom treating seeds for others for remuneration (~~shall be~~) are considered dealers for the purpose of this chapter.

(3) Application for a license to distribute seed (~~shall~~) must be through the (~~master license~~) business licensing system and (~~shall~~) must include the name and address of the person applying for the license, the name of a person domiciled in this state authorized to receive and accept service or legal notices of all kinds, and any other reasonable and practical information prescribed by the department necessary to carry out the purposes and provisions of this chapter.

Sec. 7. RCW 15.49.390 and 1982 c 182 s 25 are each amended to read as follows:

If an application for renewal of the dealer's license provided for in RCW 15.49.380, is not filed prior to the ~~((master))~~ business license expiration date, the ~~((master))~~ business license delinquency fee ~~((shall))~~ must be assessed under chapter 19.02 RCW and ~~((shall))~~ must be paid by the applicant before the renewal license ~~((shall be))~~ is issued.

Sec. 8. RCW 15.54.275 and 1998 c 36 s 3 are each amended to read as follows:

(1) No person may distribute a bulk fertilizer in this state until a license to distribute has been obtained by that person. An annual license is required for each out-of-state or in-state location that distributes bulk fertilizer in Washington state. An application for each location ~~((shall))~~ must be filed on forms provided by the ~~((master license))~~ business licensing system established under chapter 19.02 RCW and ~~((shall))~~ must be accompanied by an annual fee of twenty-five dollars per location. The license ~~((shall))~~ expires on the ~~((master))~~ business license expiration date.

(2) An application for license ~~((shall))~~ must include the following:

(a) The name and address of licensee.

(b) Any other information required by the department by rule.

(3) The name and address shown on the license ~~((shall))~~ must be shown on all labels, pertinent invoices, and storage facilities for fertilizer distributed by the licensee in this state.

(4) If an application for license renewal provided for in this section is not filed prior to the ~~((master))~~ business license expiration date, a delinquency fee of twenty-five dollars ~~((shall))~~ must be assessed and added to the original fee and ~~((shall))~~ must be paid by the applicant before the renewal license ~~((shall be))~~ is issued. The assessment of this delinquency fee ~~((shall))~~ does not prevent the department from taking any other action as provided for in this chapter. The penalty ~~((shall))~~ does not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of his or her prior license.

Sec. 9. RCW 15.58.030 and 2011 c 103 s 35 are each reenacted and amended to read as follows:

~~((As used in this chapter the words and phrases defined in this section shall have the meanings indicated))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, desiccant, or spray adjuvant.

(2) "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

(3) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(4) "Complete wood destroying organism inspection" means inspection for the purpose of determining evidence of infestation, damage, or conducive

conditions as part of the transfer, exchange, or refinancing of any structure in Washington state. Complete wood destroying organism inspections include any wood destroying organism inspection that is conducted as the result of telephone solicitation by an inspection, pest control, or other business, even if the inspection would fall within the definition of a specific wood destroying organism inspection.

(5) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(6) "Department" means the Washington state department of agriculture.

(7) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(8) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests, or to destroy, control, repel or mitigate fungi, nematodes, or such other pests, as may be designated by the director, but not including equipment used for the application of pesticides when sold separately from the pesticides.

(9) "Director" means the director of the department or a duly authorized representative.

(10) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply pesticides in this state.

(11) "EPA" means the United States environmental protection agency.

(12) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(13) "FIFRA" means the federal insecticide, fungicide, and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

(14) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living persons or other animals.

(15) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(16) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed.

(17) "Inert ingredient" means an ingredient which is not an active ingredient.

(18) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide, and when the pesticide contains arsenic in any form, the ingredient statement (~~shall~~) must also include percentages of total and water soluble arsenic, each calculated as elemental arsenic. The ingredient statement for a spray adjuvant must be consistent with the labeling requirements adopted by rule.

(19) "Insect" means any of the numerous small invertebrate animals whose bodies are more or less obviously segmented, and which for the most part belong to the class insecta, comprising six-legged, usually winged forms, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(20) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insects which may be present in any environment whatsoever.

(21) "Inspection control number" means a number obtained from the department that is recorded on wood destroying organism inspection reports issued by a structural pest inspector in conjunction with the transfer, exchange, or refinancing of any structure.

(22) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide, device, or immediate container, and the outside container or wrapper of the retail package.

(23) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon the pesticide, device, or any of its containers or wrappers;

(b) Accompanying the pesticide, or referring to it in any other media used to disseminate information to the public; and

(c) To which reference is made on the label or in literature accompanying or referring to the pesticide or device except when accurate nonmisleading reference is made to current official publications of the department, United States departments of agriculture; interior; education; health and human services; state agricultural colleges; and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(24) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(25) "~~(Master license)~~ Business licensing system" means the mechanism established by chapter 19.02 RCW by which ~~((master))~~ business licenses, endorsed for individual state-issued licenses, are issued and renewed using a ~~((master))~~ business license application and a ~~((master))~~ business license expiration date common to each renewable license endorsement.

(26) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(27) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts, may also be called nemas or eelworms.

(28) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(29) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed and any form of plant or animal life or virus, except virus on or in a living person or other animal, which is normally considered to be a pest or which the director may declare to be a pest.

(30) "Pest control consultant" means any individual who sells or offers for sale at other than a licensed pesticide dealer outlet or location where they are employed, or who offers or supplies technical advice or makes recommendations to the user of:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(31) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant.

(32) "Pesticide dealer" means any person who distributes any of the following pesticides:

(a) Highly toxic pesticides, as determined under RCW 15.58.040;

(b) EPA restricted use pesticides or restricted use pesticides which are restricted by rule to distribution by licensed pesticide dealers only; or

(c) Any other pesticide except those pesticides which are labeled and intended for home and garden use only.

(33) "Pesticide dealer manager" means the owner or other individual supervising pesticide distribution at one outlet holding a pesticide dealer license.

(34) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but (~~shall~~) does not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(35) "Registrant" means the person registering any pesticide under the provisions of this chapter.

(36) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(37) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

(38) "Special local needs registration" means a registration issued by the director pursuant to provisions of section 24(c) of FIFRA.

(39) "Specific wood destroying organism inspection" means an inspection of a structure for purposes of identifying or verifying evidence of an infestation of wood destroying organisms prior to pest management activities.

(40) "Spray adjuvant" means any product intended to be used with a pesticide as an aid to the application or to the effect of the pesticide, and which is in a package or container separate from the pesticide. Spray adjuvant includes, but is not limited to, acidifiers, compatibility agents, crop oil concentrates, defoaming agents, drift control agents, modified vegetable oil concentrates, nonionic surfactants, organosilicone surfactants, stickers, and water conditioning

agents. Spray adjuvant does not include products that are only intended to mark the location where a pesticide is applied.

(41) "Structural pest inspector" means any individual who performs the service of conducting a complete wood destroying organism inspection or a specific wood destroying organism inspection.

(42) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(43) "Weed" means any plant which grows where not wanted.

(44) "Wood destroying organism" means insects or fungi that consume, excavate, develop in, or otherwise modify the integrity of wood or wood products. Wood destroying organism includes, but is not limited to, carpenter ants, moisture ants, subterranean termites, dampwood termites, beetles in the family Anobiidae, and wood decay fungi (wood rot).

(45) "Wood destroying organism inspection report" means any written document that reports or comments on the presence or absence of wood destroying organisms, their damage, and/or conducive conditions leading to the establishment of such organisms.

Sec. 10. RCW 15.58.180 and 2008 c 285 s 16 are each amended to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, it is unlawful for any person to act in the capacity of a pesticide dealer or advertise as or assume to act as a pesticide dealer without first having obtained an annual license from the director. The license expires on the (~~(master)~~) business license expiration date. A license is required for each location or outlet located within this state from which pesticides are distributed. A manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes pesticides directly into this state must obtain a pesticide dealer license for his or her principal out-of-state location or outlet, but such a licensed out-of-state pesticide dealer is exempt from the pesticide dealer manager requirements.

(2) Application for a license must be accompanied by a fee of sixty-seven dollars and must be made through the (~~(master license)~~) business licensing system and must include the full name of the person applying for the license and the name of the individual within the state designated as the pesticide dealer manager. If the applicant is a partnership, association, corporation, or organized group of persons, the full name of each member of the firm or partnership or the names of the officers of the association or corporation must be given on the application. The application must state the principal business address of the applicant in the state and elsewhere, the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director.

(3) It is unlawful for any licensed dealer outlet to operate without a pesticide dealer manager who has a license of qualification. (4) This section does not apply to (a) a licensed pesticide applicator who sells pesticides only as an integral part of the applicator's pesticide application service when pesticides are dispensed only through apparatuses used for pesticide application, or (b) any federal, state, county, or municipal agency that provides pesticides only for its own programs.

(5) A user of a pesticide may distribute a properly labeled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

Sec. 11. RCW 15.58.235 and 1989 c 380 s 19 are each amended to read as follows:

(1) If an application for renewal of a pesticide dealer license is not filed on or before the ((~~master~~)) business license expiration date, the ((~~master~~)) business license delinquency fee ((~~shall~~)) must be assessed under chapter 19.02 RCW and ((~~shall~~)) must be paid by the applicant before the renewal license is issued.

(2) If application for renewal of any license provided for in this chapter other than the pesticide dealer license is not filed on or before the expiration date of the license, a penalty equivalent to the license fee ((~~shall~~)) must be assessed and added to the original fee, and ((~~shall~~)) must be paid by the applicant before the renewal license is issued(~~(=PROVIDED, That)~~). However, such penalty ((~~shall~~)) does not apply if the applicant furnishes an affidavit certifying that he or she has not acted as a licensee subsequent to the expiration of the license.

(3) Any license for which a renewal application has been made, all other requirements have been met, and the proper fee paid, continues in full force and effect until the director notifies the applicant that the license has been renewed or the application has been denied.

Sec. 12. RCW 18.44.031 and 2010 c 34 s 3 are each amended to read as follows:

An application for an escrow agent license ((~~shall~~)) must be in writing in such form as is prescribed by the director, and ((~~shall~~)) must be verified on oath by the applicant. An application for an escrow agent license ((~~shall~~)) must include the following:

(1) The applicant's form of business organization and place of organization;

(2) Information concerning the identity of the applicant, and its officers, directors, owners, partners, controlling persons, and employees, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any government agency or subdivision authorized to receive information for state and national criminal history background checks; personal history; experience; business record; purposes; and other pertinent facts, as the director may reasonably require. The director may also request criminal history record information, including nonconviction data, as defined by RCW 10.97.030. The department may disseminate nonconviction data obtained under this section only to criminal justice agencies. The applicant must pay the cost of fingerprinting and processing the fingerprints by the department;

(3) If the applicant is a corporation or limited liability company, the address of its physical location, a list of officers, controlling persons, and directors of such corporation or company and their residential addresses, telephone numbers, and other identifying information as the director may determine by rule. If the applicant is a sole proprietorship or partnership, the address of its business location, a list of owners, partners, or controlling persons and their residential addresses, telephone numbers, and other identifying information as the director may determine by rule. Any information in the application regarding the personal residential address or telephone number of any officer, director, partner,

owner, controlling person, or employee is exempt from the public records disclosure requirements of chapter 42.56 RCW;

(4) In the event the applicant is doing business under an assumed name, a copy of the ~~((master))~~ business license issued through the business licensing system established under chapter 19.02 RCW, with the registered trade name shown;

(5) The qualifications and business history of the applicant and all of its officers, directors, owners, partners, and controlling persons;

(6) A personal credit report from a recognized credit reporting bureau satisfactory to the director on all officers, directors, owners, partners, and controlling persons of the applicant;

(7) Whether any of the officers, directors, owners, partners, or controlling persons have been convicted of any crime within the preceding ten years which relates directly to the business or duties of escrow agents, or have suffered a judgment within the preceding five years in any civil action involving fraud, misrepresentation, any unfair or deceptive act or practice, or conversion;

(8) The identity of the licensed escrow officer designated by the escrow agent as the designated escrow officer responsible for supervising the agent's escrow activity;

(9) Evidence of compliance with the bonding and insurance requirements of RCW 18.44.201; and

(10) Any other information the director may require by rule. The director may share any information contained within a license application, including fingerprints, with the federal bureau of investigation and other regulatory or law enforcement agencies.

Sec. 13. RCW 18.64.011 and 2009 c 549 s 1008 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise~~((definitions of terms shall be as indicated when used in this chapter))~~.

(1) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) "Board" means the Washington state board of pharmacy.

(3) "Compounding" ~~((shall be))~~ means the act of combining two or more ingredients in the preparation of a prescription.

(4) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(5) "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.

(6) "Department" means the department of health.

(7) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

(8) "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.

(9) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(10) (~~The words~~) "Drug" and "devices" (~~shall~~) do not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes (~~, nor shall the word~~). "Drug" also does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(11) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(12) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state. Health care entity includes a freestanding outpatient surgery center or a freestanding cardiac care center. It does not include an individual practitioner's office or a multipractitioner clinic.

(13) "Labeling" (~~shall~~) means the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(14) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(15) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, prepares, compounds, packages, or labels such substance or device.

(16) "Manufacturer" (~~shall~~) means a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(17) (~~Master license~~) "Business licensing system" means the mechanism established by chapter 19.02 RCW by which (~~master~~) business licenses,

endorsed for individual state-issued licenses, are issued and renewed utilizing a ((~~master~~)) business license application and a ((~~master~~)) business license expiration date common to each renewable license endorsement.

(18) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(19) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(20) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(21) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(22) ((~~The word~~)) "Poison" ((~~shall~~)) does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(23) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(24) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(25) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(26) "Secretary" means the secretary of health or the secretary's designee.

(27) "Wholesaler" ((~~shall~~)) means a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

Sec. 14. RCW 18.64.044 and 2005 c 388 s 5 are each amended to read as follows:

(1) A shopkeeper registered as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer.

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is ((~~hereby~~)) required to register as a shopkeeper through the ((~~master license system~~)) business licensing system established under chapter 19.02 RCW, and he or she ((~~shall~~)) must pay the fee determined by the secretary for registration, and on a date to be determined by the secretary thereafter the fee determined by the secretary for renewal of the registration; and ((~~shall~~)) must at all times keep said registration or the current

renewal thereof conspicuously exposed in the location to which it applies. In event such shopkeeper's registration is not renewed by the (~~(master)~~) business license expiration date, no renewal or new registration (~~(shall)~~) may be issued except upon payment of the registration renewal fee and the (~~(master)~~) business license delinquency fee under chapter 19.02 RCW. This registration fee (~~(shall)~~) does not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the secretary under subsection (2) of this section (~~(shall)~~) may not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who (~~(shall)~~) vends or sells, or offers to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, (~~(shall be)~~) is guilty of a misdemeanor and each sale or offer to sell (~~(shall)~~) constitutes a separate offense.

(5) A shopkeeper who is not a licensed pharmacy may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The board (~~(shall)~~) must issue a warning to a shopkeeper who violates this subsection, and may suspend or revoke the registration of the shopkeeper for a subsequent violation.

(6) A shopkeeper who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the shopkeeper's total prior monthly sales of nonprescription drugs in March through October. In November through February, the shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the shopkeeper's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The board may suspend or revoke the registration of a shopkeeper who violates this subsection.

(b) The shopkeeper (~~(shall)~~) must maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the board. The records must be available for inspection by the board or any law enforcement agency and must be maintained for two years. The board may suspend or revoke the registration of a shopkeeper who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

Sec. 15. RCW 19.02.010 and 1982 c 182 s 1 are each amended to read as follows:

(1) Experience under the pilot program of the business coordination act suggests that the number of state licenses required for new businesses and the renewal of existing licenses places an undue burden on business. Studies under

this act also show that the state can reduce its costs by coordinating and consolidating application forms, information, and licenses. Therefore, the legislature extends the business coordination act by establishing a business license program and license center to develop and implement the following goals and objectives:

~~((1))~~ (a) The first goal of this system is to provide a convenient, accessible, and timely one-stop system for the business community to acquire and maintain the necessary state licenses to conduct business. This system ~~((shall))~~ must be developed and operated in the most cost-efficient manner for the business community and state. The objectives of this goal are:

~~((a))~~ (i) To provide a service whereby information is available to the business community concerning all state licensing and regulatory requirements, and to the extent feasible, include local and federal information concerning the same regulated activities;

~~((b))~~ (ii) To provide a system which ~~((will))~~ enables state agencies to efficiently store, retrieve, and exchange license information with due regard to privacy statutes; to issue and renew ~~((master))~~ business licenses where such licenses are appropriate; and to provide appropriate support services for this objective;

~~((c))~~ (iii) To provide at designated locations one consolidated application form to be completed by any given applicant; and

~~((d))~~ (iv) To provide a statewide system of common business identification.

~~((2))~~ (b) The second goal of this system is to aid business and the growth of business in Washington state by instituting a ~~((master))~~ business license system that ~~((will))~~ reduces the paperwork burden on business, and promote the elimination of obsolete and duplicative licensing requirements by consolidating existing licenses and applications.

(2) It is the intent of the legislature that the authority for determining if a requested license ~~((shall be))~~ is issued ~~((shall))~~ remains with the agency legally authorized to issue the license.

(3) It is the further intent of the legislature that those licenses which no longer serve a useful purpose in regulating certain business activities should be eliminated.

Sec. 16. RCW 19.02.020 and 2011 c 298 s 4 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) "Business license" means the single document designed for public display issued by the business licensing service, which certifies state agency or local government license approval and which incorporates the endorsements for individual licenses included in the business licensing system, which the state or local government requires for any person subject to this chapter.

(2) "Business license application" means a document incorporating pertinent data from existing applications for licenses covered under this chapter.

(3) "Business ~~((license center))~~ licensing service" means the business registration and licensing ~~((center))~~ service established by this chapter and located in and under the administrative control of the department of revenue.

~~((2))~~ (4) "Department" means the department of revenue.

~~((3))~~ (5) "Director" means the director of ~~((revenue))~~ the department.

~~((4))~~ (6) "License" means the whole or part of any agency or local government permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency rule, to engage in any activity.

~~((5))~~ (7) "License information packet" means a collection of information about licensing requirements and application procedures custom-assembled for each request.

~~((6))~~ "Master application" means a document incorporating pertinent data from existing applications for licenses covered under this chapter.

~~((7))~~ "Master license" means the single document designed for public display issued by the business license center which certifies state agency or local government license approval and which incorporates the endorsements for individual licenses included in the master license system, which the state or local government requires for any person subject to this chapter.

(8) "Participating local government" means a municipal corporation or political subdivision that participates in the ~~((master license))~~ business licensing system established by this chapter.

(9) "Person" means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, state or local government agency, and any other organization required to register with the state or a participating local government to do business in the state or the participating local government and to obtain one or more licenses from the state or any of its agencies or the participating local government.

(10) "Regulatory" means all licensing and other governmental or statutory requirements pertaining to business or professional activities.

(11) "Regulatory agency" means any state agency, board, commission, division, or local government that regulates one or more professions, occupations, industries, businesses, or activities.

(12) "Renewal application" means a document used to collect pertinent data for renewal of licenses covered under this chapter.

(13) "System" or "~~((master license))~~ business licensing system" means the procedure by which ~~((master))~~ business licenses are issued and renewed, license and regulatory information is collected and disseminated with due regard to privacy statutes, and account data is exchanged by the agencies and participating local governments.

Sec. 17. RCW 19.02.030 and 2011 c 298 s 5 are each amended to read as follows:

(1) There is located within the department a business ~~((license center))~~ licensing service.

(2) The duties of the ~~((center))~~ business licensing service include:

(a) Developing and administering a computerized one-stop ~~((master license))~~ business licensing system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes, as well as issuing and renewing ~~((master))~~ business licenses in an efficient manner;

(b) Providing a license information service detailing requirements to establish or engage in business in this state;

(c) Providing for staggered ~~((master))~~ business license renewal dates;

(d) Identifying types of licenses appropriate for inclusion in the (~~master license~~) business licensing system;

(e) Recommending in reports to the governor and the legislature the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing or inspection requirements; and

(f) Incorporating licenses into the (~~master license~~) business licensing system.

(3) The department may adopt under chapter 34.05 RCW such rules as may be necessary to effectuate the purposes of this chapter.

Sec. 18. RCW 19.02.035 and 1982 c 182 s 4 are each amended to read as follows:

(1) The business (~~license center shall~~) licensing service must compile information regarding the regulatory programs associated with each of the licenses obtainable under the (~~master license~~) business licensing system. This information (~~shall~~) must include, at a minimum, a listing of the statutes and administrative rules requiring the licenses and pertaining to the regulatory programs that are directly related to the licensure. For example, for pesticide dealers' licenses, the information (~~shall~~) must include the statutes and rules requiring licensing as well as those pertaining to the subject of registering or distributing pesticides.

(2) The business (~~license center shall~~) licensing service must provide information governed by this section to any person requesting it. Materials used by the (~~center to describe the services provided by the center shall~~) business licensing service to describe its services must indicate that this information is available upon request.

Sec. 19. RCW 19.02.070 and 2011 c 298 s 7 are each amended to read as follows:

(1) Any person requiring licenses (~~which~~) that have been incorporated into the system must submit a (~~master~~) business license application to the department requesting the issuance of the licenses. The (~~master~~) business license application form must contain in consolidated form information necessary for the issuance of the licenses.

(2) The applicant must include with the application the sum of all fees and deposits required for the requested individual license endorsements as well as the handling fee established by the department under the authority of RCW 19.02.075.

(3) Irrespective of any authority delegated to the department to implement the provisions of this chapter, the authority for approving issuance and renewal of any requested license that requires a precensing or renewal investigation, inspection, testing, or other judgmental review by the regulatory agency otherwise legally authorized to issue the license must remain with that agency. The business (~~license center~~) licensing service has the authority to issue those licenses for which proper fee payment and a completed application form have been received and for which no precensing or renewal approval action is required by the regulatory agency.

(4) Upon receipt of the application and proper fee payment for any license for which issuance is subject to regulatory agency action under subsection (3) of this section, the department must immediately notify the regulatory agency with

authority to approve issuance or renewal of the license requested by the applicant. Each regulatory agency must advise the department within a reasonable time after receiving the notice: (a) That the agency approves the issuance of the requested license and will advise the applicant of any specific conditions required for issuing the license; (b) that the agency denies the issuance of the license and gives the applicant reasons for the denial; or (c) that the application is pending.

(5) The department must issue a ~~((master))~~ business license endorsed for all the approved licenses to the applicant and advise the applicant of the status of other requested licenses. It is the responsibility of the applicant to contest the decision regarding conditions imposed or licenses denied through the normal process established by statute or by the regulatory agency with the authority for approving issuance of the license.

(6) Regulatory agencies must be provided information from the ~~((master))~~ business license application for their licensing and regulatory functions.

Sec. 20. RCW 19.02.075 and 2011 c 298 s 8 are each amended to read as follows:

The department must collect a handling fee on each ~~((master))~~ business license application and each renewal application filing. The department must set the amount of the handling fees by rule, as authorized by RCW 19.02.030. The handling fees may not exceed nineteen dollars for each ~~((master))~~ business license application, and eleven dollars for each business license renewal application filing, and must be deposited in the ~~((master license fund))~~ business license account. The department may increase handling and renewal fees for the purposes of making improvements in the ~~((master license))~~ business licensing service program, including improvements in technology and customer services, expanded access, and infrastructure.

Sec. 21. RCW 19.02.080 and 1992 c 107 s 3 are each amended to read as follows:

All fees collected under the system ~~((shall))~~ must be deposited with the state treasurer. Upon issuance or renewal of the ~~((master))~~ business license or supplemental licenses, the department ~~((shall))~~ must distribute the fees, except for fees covered under RCW 19.02.210 and for fees covered under RCW 19.80.075, to the appropriate accounts under the applicable statutes for those agencies' licenses.

Sec. 22. RCW 19.02.085 and 1992 c 107 s 5 are each amended to read as follows:

To encourage timely renewal by applicants, a ~~((master))~~ business license delinquency fee ~~((shall be))~~ is imposed on licensees who fail to renew by the ~~((master))~~ business license expiration date. The ~~((master))~~ business license delinquency fee ~~((shall))~~ must be the lesser of one hundred fifty dollars or fifty percent of a base comprised of the licensee's renewal fee minus corporate licensing taxes, corporation annual report fee, and any interest fees or penalties charged for late taxes or corporate renewals. The ~~((master))~~ business license delinquency fee ~~((shall))~~ must be added to the renewal fee and paid by the licensee before a ~~((master))~~ business license ~~((shall be))~~ is renewed. The delinquency fee ~~((shall))~~ must be deposited in the ~~((master license fund))~~ business license account.

Sec. 23. RCW 19.02.090 and 1982 c 182 s 8 are each amended to read as follows:

(1) The department ~~((shall))~~ must assign an expiration date for each ~~((master))~~ business license. All renewable licenses endorsed on that ~~((master))~~ business license ~~((shall))~~ must expire on that date. License fees ~~((shall))~~ must be prorated to accommodate the staggering of expiration dates.

(2) All renewable licenses endorsed on a ~~((master))~~ business license ~~((shall))~~ must be renewed by the department under conditions originally imposed unless a regulatory agency advises the department of conditions or denials to be imposed before the endorsement is renewed.

Sec. 24. RCW 19.02.100 and 2011 c 298 s 9 are each amended to read as follows:

(1) The department may ~~((not))~~ refuse to issue or renew a ~~((master))~~ business license to any person if:

(a) The person does not have a valid tax registration, if required by a regulatory agency;

(b) The person is a corporation delinquent in fees or penalties owing to the secretary of state or is not validly registered under Title 23B RCW, chapter 18.100 RCW, Title 24 RCW, or any other statute now or hereafter adopted which gives corporate or business licensing responsibilities to the secretary of state if the person is required to be so registered and the regulatory agency having the authority to approve the issuance or renewal of the license requires, as a condition of such approval, that the person be so registered or not delinquent in fees or penalties owing to the secretary of state; or

(c) The person has not submitted the sum of all fees and deposits required for the requested individual license endorsements, any outstanding ~~((master))~~ business license delinquency fee, or other fees and penalties to be collected through the system.

(2) Nothing in this section prevents registration by the state of a business for taxation purposes, or an employer for the purpose of paying an employee of that employer industrial insurance or unemployment insurance benefits.

~~((3) The department must immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate is automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.))~~

Sec. 25. RCW 19.02.110 and 2007 c 52 s 1 are each amended to read as follows:

(1) In addition to the licenses processed under the ~~((master license))~~ business licensing system prior to April 1, 1982, on July 1, 1982, use of the ~~((master license system shall be))~~ business licensing system is expanded as provided by this section.

(2) Applications for the following ~~((shall))~~ must be filed with the business ~~((license center and shall))~~ licensing service and must be processed, and

renewals (~~(shall)~~) must be issued, under the (~~(master license)~~) business licensing system:

- ~~((1))~~ (a) Nursery dealer's licenses required by chapter 15.13 RCW;
- ~~((2))~~ (b) Seed dealer's licenses required by chapter 15.49 RCW;
- ~~((3))~~ (c) Pesticide dealer's licenses required by chapter 15.58 RCW;
- ~~((4))~~ (d) Shopkeeper's licenses required by chapter 18.64 RCW;
- ~~((5))~~ (e) Egg dealer's licenses required by chapter 69.25 RCW.

Sec. 26. RCW 19.02.115 and 2011 c 298 s 12 are each amended to read as follows:

(1) For purposes of this section:

(a) "Disclose" means to make known to any person in any manner licensing information;

(b) "Licensing information" means any information created or obtained by the department in the administration of this chapter and chapters 19.80 and 59.30 RCW, which information relates to any person who: (i) Has applied for or has been issued a license or trade name; or (ii) has been issued an assessment or delinquency fee. Licensing information includes (~~(master applications, renewal applications, and master)~~) initial and renewal business license applications, and business licenses; (~~and~~)

(c) "Person" has the same meaning as in RCW 82.04.030 and also includes the state and the state's departments and institutions; and

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency.

(2) Licensing information is confidential and privileged, and except as authorized by this section, neither the department nor any other person may disclose any licensing information. Nothing in this chapter requires any person possessing licensing information made confidential and privileged by this section to delete information from such information so as to permit its disclosure.

(3) This section does not prohibit the department of revenue, or any other person receiving licensing information from the department under this subsection, from:

(a) Disclosing licensing information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In which the person about whom such licensing information is sought and the department, another state agency, or a local government are adverse parties in the proceeding; or

(ii) Involving a dispute arising out of the department's administration of chapter (~~(19.02,))~~ 19.80(~~(,))~~ or 59.30 RCW, or this chapter if the licensing information relates to a party in the proceeding;

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such licensing information regarding a license applicant or license holder to such license applicant or license holder or to such person or persons as that license applicant or license holder may designate in a request for, or consent to, such disclosure, or to any other person, at the license applicant's or license holder's request, to the extent necessary to comply with a request for information or assistance made by the license applicant or license holder to such other person. However, licensing information not received from the license applicant or holder must not be so

disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the license applicant, license holder, or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies, which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the license applicant or license holder by the order of any court;

(c) Publishing statistics so classified as to prevent the identification of particular licensing information;

(d) Disclosing licensing information for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions, or licensing;

(e) Permitting the department's records to be audited and examined by the proper state officer, his or her agents and employees;

(f) Disclosing any licensing information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax or license enforcement. A peace officer or county prosecuting attorney who receives the licensing information may disclose that licensing information only for use in the investigation and a related court proceeding, or in the court proceeding for which the licensing information originally was sought;

(g) Disclosing, in a manner that is not associated with other licensing information, the name of a license applicant or license holder, entity type, registered trade name, business address, mailing address, unified business identifier number, list of licenses issued to a person through the ~~((master license))~~ business licensing system established in this chapter ~~((19.02 RCW))~~ and their issuance and expiration dates, and the dates of opening of a business ~~((The department is authorized to give, sell, or provide access to lists of licensing information under this subsection (3)(g) that will be used for commercial purposes))~~);

(h) Disclosing licensing information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

(i) Disclosing any licensing information when the disclosure is specifically authorized under any other section of the Revised Code of Washington;

(j) Disclosing licensing information to the proper officer of the licensing or tax department of any city, town, or county of this state, for official purposes. If the licensing information does not relate to a license issued by the city, town, or county requesting the licensing information, disclosure may be made only if the laws of the requesting city, town, or county grants substantially similar privileges to the proper officers of this state; or

(k) Disclosing licensing information to the federal government for official purposes.

(4) ~~((The department))~~ Notwithstanding anything to the contrary in this section, a state agency or local government agency may disclose licensing information relating to a license issued on its behalf by the department pursuant to this chapter if the disclosure is authorized by another statute, local law, or administrative rule.

(5) The department, any other state agency, or local government may refuse to disclose licensing information that is otherwise disclosable under subsection (3) of this section if such disclosure would violate federal law or any information sharing agreement between the state or local government and federal government.

~~((5))~~ (6) Any person acquiring knowledge of any licensing information in the course of his or her employment with the department and any person acquiring knowledge of any licensing information as provided under subsection (3)(d), (e), (f), (j), or (k) of this section, who discloses any such licensing information to another person not entitled to knowledge of such licensing information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment and is incapable of holding any public office or employment in this state for a period of two years thereafter.

Sec. 27. RCW 19.02.210 and 1992 c 107 s 4 are each amended to read as follows:

The ~~((master license fund))~~ business license account is created in the state treasury. Unless otherwise indicated in RCW 19.02.075, all receipts from handling and ~~((master))~~ business license delinquency fees ~~((shall))~~ must be deposited into the ~~((fund))~~ account. Moneys in the ~~((fund))~~ account may be spent only after appropriation beginning in fiscal year 1993. Expenditures from the ~~((fund))~~ account may be used only to administer the ~~((master license services))~~ business licensing service program.

Sec. 28. RCW 19.02.310 and 2005 c 201 s 1 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department ~~((shall))~~ may administer a performance-based grant program that provides funding assistance to public agencies that issue business licenses and that wish to join with the department's ~~((master))~~ business licensing service.

(2) The department may determine among interested grant applicants the order and the amount of the grant. In making grant determinations, consideration must be given, but not limited to, the following criteria: Readiness of the public agency to participate; the number of renewable licenses; and the reduced regulatory impact to businesses subject to licensure relative to the overall investment required by the department.

(3) The department ~~((shall))~~ must invite and encourage participation by all Washington city and county governments having interests or responsibilities relating to business licensing.

(4) The total amount of grants provided under this section may not exceed seven hundred fifty thousand dollars in any one fiscal year.

(5) The source of funds for this grant program is the ~~((master))~~ business license account.

Sec. 29. RCW 19.02.800 and 2011 c 298 s 10 are each amended to read as follows:

Except as provided in RCW 43.07.200, the provisions of this chapter regarding the processing of license applications and renewals under ~~((a master license))~~ the business licensing system do not apply to those business or professional activities that are licensed or regulated under chapter 31.04, 31.12, or 31.13 RCW or under Title 30, 32, 33, or 48 RCW.

Sec. 30. RCW 19.02.890 and 1982 c 182 s 18 are each amended to read as follows:

This chapter may be known and cited as the business ~~((license center))~~ licensing service act.

NEW SECTION. Sec. 31. A new section is added to chapter 19.80 RCW to read as follows:

(1) The department may require the renewal of trade names and establish a process for renewing trade names. Any such renewal process may not require renewals of trade names more often than annually and must allow persons to renew their trade name at the same time they are required to renew their business license.

(2) The department may cancel a person's trade name upon request of the person the trade name is registered to or when the person's business license account with the department's business licensing service is inactive. The department may also provide for the cancellation of trade names under circumstances as defined by the department by rule, which may include failure to renew a trade name under a renewal process as may be established by the department under the authority of subsection (1) of this section.

(3)(a) The department must make a reasonable effort to notify a person that the department intends to cancel the person's trade name. This notice is not required when a request for cancelation of a trade name is received by the department from the person the trade name was registered to or the person's authorized representative. The department may comply with this subsection either by mailing the notice to the person's last known address on record with the department or by providing the notice electronically instead of by mail. Such electronic notice is not subject to the confidentiality provisions of RCW 19.02.115 and may be sent by e-mail to the person's last known e-mail address on record with the department. However, if the department sends a notice by e-mail and is notified that the e-mail is undeliverable, the department must resend the notice by mail to the person's last known address on record with the department.

(b) The department may cancel a trade name unless, within twenty days of sending the notice required under this subsection, the person notifies the department in writing not to cancel the person's trade name and pays any applicable renewal fee.

(4) The department may remove any canceled trade names from its database of trade names.

(5) "Business license" and "business licensing service" have the same meaning as in RCW 19.02.020.

Sec. 32. RCW 19.80.010 and 2011 c 298 s 14 are each amended to read as follows:

Each person or persons who carries on, conducts, or transacts business in this state under any trade name must register that trade name with the department as provided in this section.

(1) Sole proprietorship or general partnership: The registration must set forth the true and real name or names of each person conducting the same, together with the post office address or addresses of each such person and the name of the general partnership, if applicable.

(2) Foreign or domestic limited partnership: The registration must set forth the limited partnership name as filed with the office of the secretary of state.

(3) Foreign or domestic limited liability company: The registration must set forth the limited liability company name as filed with the office of the secretary of state.

(4) Foreign or domestic corporation: The registration must set forth the corporate name as filed with the office of the secretary of state.

(5) Other business entities: The registration must set forth the entity's name as required by the department.

Sec. 33. RCW 19.80.075 and 2011 c 298 s 17 are each amended to read as follows:

All fees collected by the department under this chapter must be deposited with the state treasurer and credited to the (~~master license fund~~) business license account.

Sec. 34. RCW 19.94.015 and 2011 c 298 s 19 and 2011 c 103 s 38 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (4) of this section for the initial registration of an instrument or device, no weighing or measuring instrument or device may be used for commercial purposes in the state unless its commercial use is registered annually. If its commercial use is within a city that has a city sealer and a weights and measures program as provided by RCW 19.94.280, the commercial use of the instrument or device must be registered with the city if the city has adopted fees pursuant to subsection (2) of this section. If its commercial use is outside of such a city, the commercial use of the instrument or device must be registered with the department.

(2) A city with such a sealer and program may establish an annual fee for registering the commercial use of such a weighing or measuring instrument or device with the city. The annual fee may not exceed the fee established in RCW 19.94.175 for registering the use of a similar instrument or device with the department. Fees upon weighing or measuring instruments or devices within the jurisdiction of the city that are collected under this subsection by city sealers must be deposited into the general fund, or other account, of the city as directed by the governing body of the city.

(3) Registrations with the department are accomplished as part of the (~~master license~~) business licensing system under chapter 19.02 RCW. Payment of the registration fee for a weighing or measuring instrument or device under the (~~master license~~) business licensing system constitutes the registration required by this section.

(4) The fees established by or under RCW 19.94.175 for registering a weighing or measuring instrument or device must be paid to the department of revenue concurrently with an application for a (~~master~~) business license under

chapter 19.02 RCW or with the annual renewal of a ((~~master~~)) business license under chapter 19.02 RCW. A weighing or measuring instrument or device must be initially registered with the state at the time the owner applies for a ((~~master~~)) business license for a new business or at the first renewal of the license that occurs after the instrument or device is first placed into commercial use. The department of revenue must remit to the department of agriculture all fees collected under this provision less reasonable collection expenses.

(5) Each city charging registration fees under this section must notify the department of agriculture at the time such fees are adopted and whenever changes in the fees are adopted.

Sec. 35. RCW 19.94.2582 and 2006 c 358 s 5 are each amended to read as follows:

(1) Each request for an official registration certificate ((~~shall~~)) must be in writing, under oath, and on a form prescribed by the department and ((~~shall~~)) must contain any relevant information as the director may require, including but not limited to the following:

(a) The name and address of the person, corporation, partnership, or sole proprietorship requesting registration;

(b) The names and addresses of all individuals requesting an official registration certificate from the department; and

(c) The tax registration number as required under RCW 82.32.030 or ((~~uniform~~)) unified business identifier provided on a ((~~master~~)) business license issued under RCW 19.02.070.

(2) Each individual when submitting a request for an official registration certificate or a renewal of such a certificate ((~~shall~~)) must pay a fee to the department in the amount of one hundred sixty dollars per individual.

(3) The department ((~~shall~~)) must issue a decision on a request for an official registration certificate within twenty days of receipt of the request. If an individual is denied their request for an official registration certificate, the department must notify that individual in writing stating the reasons for the denial and ((~~shall~~)) must refund any payments made by that individual in connection with the request.

Sec. 36. RCW 35.21.392 and 2011 c 298 s 22 are each amended to read as follows:

A city that issues a business license to a person required to be registered under chapter 18.27 RCW may verify that the person is registered under chapter 18.27 RCW and report violations to the department of labor and industries. The department of revenue must conduct the verification for cities that participate in the ((~~master license~~)) business licensing system.

Sec. 37. RCW 35A.21.340 and 2011 c 298 s 23 are each amended to read as follows:

A city that issues a business license to a person required to be registered under chapter 18.27 RCW may verify that the person is registered under chapter 18.27 RCW and report violations to the department of labor and industries. The department of revenue must conduct the verification for cities that participate in the ((~~master license~~)) business licensing system.

Sec. 38. RCW 36.110.130 and 1995 c 154 s 3 are each amended to read as follows:

In the event of a failure such as a bankruptcy or dissolution, of a private sector business, industry, or nonprofit organization engaged in a free venture industry agreement, responsibility for obligations under Title 51 RCW ((shall)) must be borne by the city or county responsible for establishment of the free venture industry agreement, as if the city or county had been the employing agency. To ensure that this obligation can be clearly identified and accomplished, and to provide accountability for purposes of the department of labor and industries, a free venture industry agreement entered into by a city or county and private sector business, industry, or nonprofit organization should be filed under a separate ((~~master business application~~) business license application in accordance with chapter 19.02 RCW, establishing a new and separate account with the department of labor and industries, and not be reported under an existing account for parties to the free venture industry agreement.

Sec. 39. RCW 43.22.035 and 2007 c 287 s 2 are each amended to read as follows:

When an employer initially files a ((~~master~~) business license application under chapter 19.02 RCW for the purpose, in whole or in part, of registering to pay industrial insurance taxes, the department ((shall)) must send to the employer any printed material the department recommends or requires the employer to post. Any time the printed material has substantive changes in the information, the department ((shall)) must send a copy to each employer.

Sec. 40. RCW 46.72A.020 and 2011 c 374 s 2 are each amended to read as follows:

(1) Contact by a customer or customer's agent to engage the services of a carrier's limousine must be initiated by a customer or customer's agent at a time and place different from the customer's time and place of departure. The fare for service must be agreed upon prior to departure. Under no circumstances may customers or customers' agents make arrangements to immediately engage the services of a carrier's limousine with the chauffeur, even if the chauffeur is an owner or officer of the company, with the single exception of stand-hail limousines only at a facility owned and operated by a port district in a county with a population of one million or more that are licensed and restricted by the rules and policies set forth by the port district.

(2) At the time of the conduct of the commercial limousine business, the chauffeur of a limousine and the limousine carrier business must possess written or electronic records substantiating the prearrangement of the carrier's services for any customer carried for compensation, except for vehicles meeting the requirements of the exception for stand-hail limousines described in subsection (1) of this section. Limousine carriers and limousine chauffeurs operating as an independent business must list a physical address on their ((~~master~~) business license issued under chapter 19.02 RCW where records substantiating the prearrangement of the carrier's services may be reviewed by an enforcement officer. A limousine carrier must retain these records for a minimum of one calendar year, and failure to do so is a class 3 civil infraction against the carrier for each record that is missing or fails to include all of the information described in rules adopted under subsection (4) of this section.

(3) Limousine carriers and limousine chauffeurs operating as an independent business must list a telephone or pager number that is used to prearrange the carrier's services for any customer carried for compensation.

(4) The department (~~(shall)~~) must adopt rules specifying the content and retention schedule of the records required for compliance with subsection (2) of this section.

(5) The failure of a chauffeur who is operating a limousine to immediately provide, on demand by an enforcement officer, written or electronic records required by the department substantiating the prearrangement of the carrier's services for any customer carried for compensation, except for limousines meeting the requirements of the exception for stand-hail limousines described in subsection (1) of this section, is a class 2 civil infraction and is subject to monetary penalties under RCW 7.80.120. It is a class 1 civil infraction for a repeat offense under this subsection during the same calendar year.

(6) The department (~~(shall)~~) must define by rule conditions under which a chauffeur is considered to be operating a limousine, including when the limousine is parked in a designated passenger load zone.

Sec. 41. RCW 50.12.290 and 2007 c 287 s 1 are each amended to read as follows:

When an employer initially files a (~~(master)~~) business license application under chapter 19.02 RCW for the purpose, in whole or in part, of registering to pay unemployment insurance taxes, the employment security department (~~(shall)~~) must send to the employer any printed material the department recommends or requires the employer to post. Any time the printed material has substantive changes in the information, the department (~~(shall)~~) must send a copy to each employer.

Sec. 42. RCW 59.30.050 and 2011 c 298 s 31 are each amended to read as follows:

(1) The department must (~~(annually)~~) register all manufactured/mobile home communities, which registration must be renewed annually. Each community must be registered separately. The department must (~~(deliver by certified)~~) mail registration notifications to all known manufactured/mobile home community landlords. Registration information packets must include:

- (a) Registration forms; and
- (b) Registration assessment information, including registration due dates and late fees, and the collections procedures, liens, and charging costs to tenants.

(2) To apply for registration or registration renewal, the landlord of a manufactured/mobile home community must file with the department an application for registration or registration renewal on a form provided by the department and must pay a registration fee as described in subsection (3) of this section. The department may require the submission of information necessary to assist in identifying and locating a manufactured/mobile home community and other information that may be useful to the state, which must include, at a minimum:

- (a) The names and addresses of the owners of the manufactured/mobile home community;
- (b) The name and address of the manufactured/mobile home community;

(c) The name and address of the landlord and manager of the manufactured/mobile home community;

(d) The number of lots within the manufactured/mobile home community that are subject to chapter 59.20 RCW; and

(e) The addresses of each manufactured/mobile home lot within the manufactured/mobile home community that is subject to chapter 59.20 RCW.

(3) Each manufactured/mobile home community landlord must pay to the department:

(a) A one-time (~~((master))~~) business license application fee for the first year of registration and, in subsequent years, an annual (~~((master))~~) renewal application fee, as provided in RCW 19.02.075; and

(b) An annual registration assessment of ten dollars for each manufactured/mobile home that is subject to chapter 59.20 RCW within a manufactured/mobile home community. Manufactured/mobile home community landlords may charge a maximum of five dollars of this assessment to tenants. Nine dollars of the registration assessment for each manufactured/mobile home must be deposited into the manufactured/mobile home dispute resolution program account created in RCW 59.30.070 to fund the costs associated with the manufactured/mobile home dispute resolution program. The remaining one dollar must be deposited into the (~~((master license fund))~~) business license account created in RCW 19.02.210. The annual registration assessment must be reviewed once each biennium by the department and the attorney general and may be adjusted to reasonably relate to the cost of administering this chapter. The registration assessment may not exceed ten dollars, but if the assessment is reduced, the portion allocated to the manufactured/mobile home dispute resolution program account and the (~~((master license fund))~~) business license account must be adjusted proportionately.

(4) Initial registrations of manufactured/mobile home communities must be filed before November 1, 2007, or within three months of the availability of mobile home lots for rent within the community. The manufactured/mobile home community is subject to a delinquency fee of two hundred fifty dollars for late initial registrations. The delinquency fee must be deposited in the (~~((master license fund))~~) business license account. Renewal registrations that are not renewed by the expiration date as assigned by the department are subject to delinquency fees under RCW 19.02.085.

(5) Thirty days after sending late fee notices to a noncomplying landlord, the department may issue a warrant under RCW 59.30.090 for the unpaid registration assessment and delinquency fee. If a warrant is issued by the department under RCW 59.30.090, the department must add a penalty of ten percent of the amount of the unpaid registration assessment and delinquency fee, but not less than ten dollars. The warrant penalty must be deposited into the (~~((master license fund))~~) business license account created in RCW 19.02.210. Chapter 82.32 RCW applies to the collection of warrants issued under RCW 59.30.090.

(6) Registration is effective on the date determined by the department, and the department must issue a registration number to each registered manufactured/mobile home community. The department must provide an expiration date, assigned by the department, to each manufactured/mobile home community who registers.

Sec. 43. RCW 59.30.090 and 2011 c 298 s 33 are each amended to read as follows:

(1) If any registration assessment or delinquency fee is not paid in full within thirty days after sending late fee notices to a noncomplying landlord, the department may issue a warrant in the amount of such unpaid sums, together with interest thereon from the date the warrant is issued until the date of payment.

(2) Interest must be computed on a daily basis on the amount of outstanding registration assessment and delinquency fee imposed under RCW 59.30.050 at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year. Interest must be deposited in the ~~((master license fund))~~ business license account created in RCW 19.02.210.

(3) The department may file a copy of the warrant with the clerk of the superior court of any county of the state in which real or personal property of the owner of the manufactured/mobile home community may be found. The clerk is entitled to a filing fee under RCW 36.18.012(10). Upon filing, the clerk must enter in the judgment docket the name of the owner of the manufactured/mobile home community mentioned in the warrant and the amount of the registration assessment and delinquency fee, or portion thereof, and any increases and penalties for which the warrant is issued, and the date when the copy is filed.

(4) The amount of the warrant so docketed becomes a lien upon the title to, and interest in, all real and personal property of the owner of the manufactured/mobile home community against whom the warrant is issued the same as a judgment in a civil case duly docketed in the office of the clerk. The warrant so docketed is sufficient to support the issuance of writs of garnishment in favor of the state in the manner provided by law in the case of judgments wholly or partially unsatisfied.

(5) The lien is not superior to bona fide interests of third persons that had vested prior to the filing of the warrant. The phrase "bona fide interests of third persons" does not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the owner of the manufactured/mobile home community mentioned in the warrant who executed the chattel or real property mortgage or the document evidencing the credit transaction.

Sec. 44. RCW 69.25.020 and 2011 c 306 s 1 are each reenacted and amended to read as follows:

~~((When used in this chapter the following terms shall have the indicated meanings;))~~ The definitions in this section apply throughout this chapter unless the context clearly otherwise requires(=).

(1) "Adulterated" applies to any egg or egg product under one or more of the following circumstances:

(a) If it bears or contains any poisonous or deleterious substance ~~((which))~~ that may render it injurious to health; but in case the substance is not an added substance, such article ~~((shall))~~ is not ~~((be))~~ considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(b) If it bears or contains any added poisonous or added deleterious substance (other than one which is: (i) A pesticide chemical in or on a raw

agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the director, make such article unfit for human food;

(c) If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of RCW 69.04.392, as enacted or hereafter amended;

(d) If it bears or contains any food additive which is unsafe within the meaning of RCW 69.04.394, as enacted or hereafter amended;

(e) If it bears or contains any color additive which is unsafe within the meaning of RCW 69.04.396; however, an article which is not otherwise deemed adulterated under ~~((subsection (1))~~(c), (d), or (e) of this ~~(section shall)~~ subsection are nevertheless ~~((be))~~ deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on such article, is prohibited by regulations of the director in official plants;

(f) If it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human food;

(g) If it consists in whole or in part of any damaged egg or eggs to the extent that the egg meat or white is leaking, or it has been contacted by egg meat or white leaking from other eggs;

(h) If it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(i) If it is an egg which has been subjected to incubation or the product of any egg which has been subjected to incubation;

(j) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(k) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to RCW 69.04.394; or

(l) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or if any substance has been substituted, wholly or in part therefor; or if damage or inferiority has been concealed in any manner; or if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(2) "Ambient temperature" means the atmospheric temperature surrounding or encircling shell eggs.

(3) "At retail" means any transaction in intrastate commerce between a retailer and a consumer.

(4) "Candling" means the examination of the interior of eggs by the use of transmitted light used in a partially dark room or place.

(5) "Capable of use as human food" ~~((shall apply))~~ applies to any egg or egg product unless it is denatured, or otherwise identified, as required by regulations prescribed by the director, to deter its use as human food.

(6) "Check" means an egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.

(7) "Clean and sound shell egg" means any egg whose shell is free of adhering dirt or foreign material and is not cracked or broken.

(8) "Consumer" means any person who purchases eggs for his or her own family use or consumption; or any restaurant, hotel, boarding house, bakery, or

other institution or concern which purchases eggs for serving to guests or patrons thereof, or for its own use in cooking or baking.

(9) "Container" or "package" includes any box, can, tin, plastic, or other receptacle, wrapper, or cover.

(10) "Department" means the department of agriculture of the state of Washington.

(11) "Director" means the director of the department or his duly authorized representative.

(12) "Dirty egg" means an egg that has a shell that is unbroken and has adhering dirt or foreign material.

(13) "Egg" means the shell egg of the domesticated chicken, turkey, duck, goose, or guinea, or any other specie of fowl.

(14) "Egg handler" or "dealer" means any person who produces, contracts for or obtains possession or control of any eggs or egg products for the purpose of sale to another dealer or retailer, or for processing and sale to a dealer, retailer or consumer. For the purpose of this chapter, "sell" or "sale" includes the following: Offer for sale, expose for sale, have in possession for sale, exchange, barter, trade, or as an inducement for the sale of another product.

(15)(a) "Egg product" means any dried, frozen, or liquid eggs, with or without added ingredients, excepting products which contain eggs only in a relatively small proportion, or historically have not been, in the judgment of the director, considered by consumers as products of the egg food industry, and which may be exempted by the director under such conditions as the director may prescribe to assure that the egg ingredients are not adulterated and are not represented as egg products.

(b) The following products are not included in the definition of "egg product" if they are prepared from eggs or egg products that have been either inspected by the United States department of agriculture or by the department under a cooperative agreement with the United States department of agriculture: Freeze-dried products, imitation egg products, egg substitutes, dietary foods, dried no-bake custard mixes, eggnog mixes, acidic dressings, noodles, milk and egg dip, cake mixes, French toast, balut and other similar ethnic delicacies, and sandwiches containing eggs or egg products.

(16) "Immediate container" means any consumer package, or any other container in which egg products, not consumer-packaged, are packed.

(17) "Incubator reject" means an egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.

(18) "Inedible" means eggs of the following descriptions: Black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, and eggs containing embryo chicks (at or beyond the blood ring stage).

(19) "Inspection" means the application of such inspection methods and techniques as are deemed necessary by the director to carry out the provisions of this chapter.

(20) "Inspector" means any employee or official of the department authorized to inspect eggs or egg products under the authority of this chapter.

(21) "Intrastate commerce" means any eggs or egg products in intrastate commerce, whether such eggs or egg products are intended for sale, held for

sale, offered for sale, sold, stored, transported, or handled in this state in any manner and prepared for eventual distribution in this state, whether at wholesale or retail.

(22) "Leaker" means an egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.

(23) "Loss" means an egg that is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat spots, a large quantity of blood, or other foreign material.

(24) "~~((Master license))~~ Business licensing system" means the mechanism established by chapter 19.02 RCW by which ~~((master))~~ business licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a ~~((master))~~ business license application and a ~~((master))~~ business license expiration date common to each renewable license endorsement.

(25) "Misbranded" ~~((shall apply))~~ applies to egg products ~~((which))~~ that are not labeled and packaged in accordance with the requirements prescribed by regulations of the director under RCW 69.25.100.

(26) "Official certificate" means any certificate prescribed by regulations of the director for issuance by an inspector or other person performing official functions under this chapter.

(27) "Official device" means any device prescribed or authorized by the director for use in applying any official mark.

(28) "Official inspection legend" means any symbol prescribed by regulations of the director showing that egg products were inspected in accordance with this chapter.

(29) "Official mark" means the official inspection legend or any other symbol prescribed by regulations of the director to identify the status of any article under this chapter.

(30) "Official plant" means any plant which is licensed under the provisions of this chapter, at which inspection of the processing of egg products is maintained by the United States department of agriculture or by the state under cooperative agreements with the United States department of agriculture or by the state.

(31) "Official standards" means the standards of quality, grades, and weight classes for eggs, adopted under the provisions of this chapter.

(32) "Pasteurize" means the subjecting of each particle of egg products to heat or other treatments to destroy harmful, viable micro-organisms by such processes as may be prescribed by regulations of the director.

(33) "Person" means any natural person, firm, partnership, exchange, association, trustee, receiver, corporation, and any member, officer, or employee thereof, or assignee for the benefit of creditors.

(34) "Pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" ~~((shall))~~ have the same meaning for purposes of this chapter as prescribed in chapter 69.04 RCW.

(35) "Plant" means any place of business where egg products are processed.

(36) "Processing" means manufacturing egg products, including breaking eggs or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(37) "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker, or loss.

(38) "Retailer" means any person in intrastate commerce who sells eggs to a consumer.

(39) "Shipping container" means any container used in packaging a product packed in an immediate container.

Sec. 45. RCW 69.25.050 and 2011 c 306 s 2 are each amended to read as follows:

(1)(a) No person (~~shall~~) may act as an egg handler or dealer without first obtaining an annual license and permanent dealer's number from the department.

(b) Application for an egg dealer license and renewal or egg dealer branch license must be made through the (~~master license~~) business licensing system as provided under chapter 19.02 RCW and expires on the (~~master~~) business license expiration date. The annual egg dealer license fee is thirty dollars and the annual egg dealer branch license fee is fifteen dollars. A copy of the (~~master~~) business license issued under chapter 19.02 RCW must be posted at each location where the licensee operates. The application must include the full name of the applicant for the license, the location of each facility the applicant intends to operate, and, if applicable, documentation of compliance with RCW 69.25.065 or 69.25.103.

(2) If an applicant is an individual, receiver, trustee, firm, partnership, association or corporation, the full name of each member of the firm or partnership or the names of the officers of the association or corporation (~~shall~~) must be given on the application. The application must further state the principal business address of the applicant in the state and elsewhere and the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant and any other necessary information prescribed by the director.

(3) The applicant must be issued a license or renewal under this section upon the approval of the application and compliance with the provisions of this chapter, including the applicable rules adopted by the department.

(4) The license and permanent egg handler or dealer's number is nontransferable.

Sec. 46. RCW 69.25.060 and 1982 c 182 s 44 are each amended to read as follows:

If the application for the renewal of an egg handler's or dealer's license is not filed before the (~~master~~) business license expiration date, the (~~master~~) business license delinquency fee (~~shall~~) must be assessed under chapter 19.02 RCW and (~~shall~~) must be paid by the applicant before the renewal license (~~shall be~~) is issued.

NEW SECTION. Sec. 47. A new section is added to chapter 70.290 RCW to read as follows:

(1) A third-party administrator must register with the association. Registrants must report a change of legal name, business name, business address, or business telephone number to the association within ten days after the change.

(2) The association must establish data elements and procedures for the registration of third-party administrators necessary to implement this section in its plan of operation.

Sec. 48. RCW 70.290.030 and 2010 c 174 s 3 are each amended to read as follows:

(1) The association is comprised of all health carriers issuing or renewing health benefit plans in Washington state and all third-party administrators conducting business on behalf of residents of Washington state or Washington health care providers and facilities. Third-party administrators are subject to registration under ((RCW 43.24.160)) section 47 of this act.

(2) The association is a nonprofit corporation under chapter 24.03 RCW and has the powers granted under that chapter.

(3) The board of directors includes the following voting members:

(a) Four members, selected from health carriers or third-party administrators, excluding health maintenance organizations, that have the most fully insured and self-funded covered lives in Washington state. The count of total covered lives includes enrollment in all companies included in their holding company system. Each health carrier or third-party administrator is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(b) One member selected from the health maintenance organization having the most fully insured and self-insured covered lives in Washington state. The count of total lives includes enrollment in all companies included in its holding company system. Each health maintenance organization is entitled to no more than a single position on the board to represent all entities under common ownership or control.

(c) One member, representing health carriers not otherwise represented on the board under (a) or (b) of this subsection, who is elected from among the health carrier members not designated under (a) or (b) of this subsection.

(d) One member, representing Taft Hartley plans, appointed by the secretary from a list of nominees submitted by the Northwest administrators association.

(e) One member representing Washington state employers offering self-funded health coverage, appointed by the secretary from a list of nominees submitted by the Puget Sound health alliance.

(f) Two physician members appointed by the secretary, including at least one board certified pediatrician.

(g) The secretary, or a designee of the secretary with expertise in childhood immunization purchasing and distribution.

(4) The directors' terms and appointments must be specified in the plan of operation adopted by the association.

(5) The board of directors of the association ((~~shall~~)) must:

(a) Prepare and adopt articles of association and bylaws;

(b) Prepare and adopt a plan of operation. The plan of operation ((~~shall~~)) must include a dispute mechanism through which a carrier or third-party administrator can challenge an assessment determination by the board under RCW 70.290.040. The board ((~~shall~~)) must include a means to bring unresolved disputes to an impartial decision maker as a component of the dispute mechanism;

(c) Submit the plan of operation to the secretary for approval;

(d) Conduct all activities in accordance with the approved plan of operation;
 (e) Enter into contracts as necessary or proper to collect and disburse the assessment;

(f) Enter into contracts as necessary or proper to administer the plan of operation;

(g) Sue or be sued, including taking any legal action necessary or proper for the recovery of any assessment for, on behalf of, or against members of the association or other participating person;

(h) Appoint, from among its directors, committees as necessary to provide technical assistance in the operation of the association, including the hiring of independent consultants as necessary;

(i) Obtain such liability and other insurance coverage for the benefit of the association, its directors, officers, employees, and agents as may in the judgment of the board of directors be helpful or necessary for the operation of the association;

~~(j) ((By May 1, 2010, establish the estimated amount of the assessment needed for the period of May 1, 2010, through December 31, 2010, based upon the estimate provided to the association under RCW 70.290.040(1); and notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's total assessment for this period by May 15, 2010;~~

~~((k))~~ ((k)) On an annual basis, beginning no later than November 1, 2010, and by November 1st of each year thereafter, establish the estimated amount of the assessment;

~~((l))~~ ((l)) Notify, in writing, each health carrier and third-party administrator of the health carrier's or third-party administrator's estimated total assessment by November 15th of each year;

~~((m))~~ ((m)) ((l)) Submit a periodic report to the secretary listing those health carriers or third-party administrators that failed to remit their assessments and audit health carrier and third-party administrator books and records for accuracy of assessment payment submission;

~~((n))~~ ((n)) ((m)) Allow each health carrier or third-party administrator no more than ninety days after the notification required by ~~((l))~~ ((l)) of this subsection to remit any amounts in arrears or submit a payment plan, subject to approval by the association and initial payment under an approved payment plan;

~~((o))~~ ((o)) ((n)) Deposit annual assessments collected by the association, less the association's administrative costs, with the state treasurer to the credit of the universal vaccine purchase account established in RCW 43.70.720;

~~((p))~~ ((p)) ((o)) Borrow and repay such working capital, reserve, or other funds as, in the judgment of the board of directors, may be helpful or necessary for the operation of the association; and

~~((q))~~ ((q)) ((p)) Perform any other functions as may be necessary or proper to carry out the plan of operation and to affect any or all of the purposes for which the association is organized.

(6) The secretary ~~((shall))~~ must convene the initial meeting of the association board of directors.

Sec. 49. RCW 76.48.121 and 2011 c 298 s 34 are each amended to read as follows:

Every first or secondary specialized forest products buyer purchasing specialty wood and every specialty wood processor must prominently display

the (~~master~~) business license issued under RCW 19.02.070 and endorsed with the respective licenses or registrations or a copy of the (~~master~~) business license at each location where the buyer or processor receives specialty wood if the first or secondary specialized forest products buyer or specialty wood processor is required to possess a license incorporated into the (~~master license~~) business licensing system created in chapter 19.02 RCW.

Sec. 50. RCW 82.24.510 and 2009 c 154 s 1 are each amended to read as follows:

(1) The licenses issuable under this chapter are as follows:

(a) A wholesaler's license.

(b) A retailer's license.

(2) Application for the licenses (~~shall~~) must be made through the (~~master license~~) business licensing system under chapter 19.02 RCW. The board (~~shall~~) must adopt rules regarding the regulation of the licenses. The board may refrain from the issuance of any license under this chapter if the board has reasonable cause to believe that the applicant has (~~wilfully~~) willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a wholesaler's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider any prior criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW (~~shall~~) do not apply to such cases. The board may, in its discretion, grant or refuse the wholesaler's license or retailer's license, subject to the provisions of RCW 82.24.550.

(3) No person may qualify for a wholesaler's license or a retailer's license under this section without first undergoing a criminal background check. The background check (~~shall~~) must be performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. A person who possesses a valid license on July 22, 2001, is subject to this subsection and subsection (2) of this section beginning on the date of the person's (~~master~~) business license expiration under chapter 19.02 RCW, and thereafter. If the applicant or licensee also has a license issued under chapter 66.24 or 82.26 RCW, the background check done under the authority of chapter 66.24 or 82.26 RCW satisfies the requirements of this section.

(4) Each such license (~~shall~~) expires on the (~~master~~) business license expiration date, and each such license (~~shall~~) must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board made pursuant thereto.

(5) Each license and any other evidence of the license that the board requires must be exhibited in each place of business for which it is issued and in the manner required for the display of a (~~master~~) business license.

Sec. 51. RCW 82.24.520 and 1986 c 321 s 6 are each amended to read as follows:

A fee of six hundred fifty dollars ((shall)) must accompany each wholesaler's license application or license renewal application. If a wholesaler sells or intends to sell cigarettes at two or more places of business, whether established or temporary, a separate license with a license fee of one hundred fifteen dollars ((shall be)) is required for each additional place of business. Each license, or certificate thereof, and such other evidence of license as the department of revenue requires, ((shall)) must be exhibited in the place of business for which it is issued and in such manner as is prescribed for the display of a ((master license. The department of revenue shall)) business license issued under chapter 19.02 RCW. The board must require each licensed wholesaler to file with the department of revenue a bond in an amount not less than one thousand dollars to guarantee the proper performance of the duties and the discharge of the liabilities under this chapter. The bond ((shall)) must be executed by such licensed wholesaler as principal, and by a corporation approved by the department of revenue and authorized to engage in business as a surety company in this state, as surety. The bond ((shall)) must run concurrently with the wholesaler's license.

Sec. 52. RCW 82.26.150 and 2009 c 154 s 4 are each amended to read as follows:

- (1) The licenses issuable by the board under this chapter are as follows:
 - (a) A distributor's license; and
 - (b) A retailer's license.

(2) Application for the licenses ((shall)) must be made through the ((master license)) business licensing system under chapter 19.02 RCW. The board may adopt rules regarding the regulation of the licenses. The board may refuse to issue any license under this chapter if the board has reasonable cause to believe that the applicant has willfully withheld information requested for the purpose of determining the eligibility of the applicant to receive a license, or if the board has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. In addition, for the purpose of reviewing an application for a distributor's license or retailer's license and for considering the denial, suspension, or revocation of any such license, the board may consider criminal conduct of the applicant, including an administrative violation history record with the board and a criminal history record information check within the previous five years, in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions, and the provisions of RCW 9.95.240 and chapter 9.96A RCW ((shall)) do not apply to such cases. The board may, in its discretion, issue or refuse to issue the distributor's license or retailer's license, subject to the provisions of RCW 82.26.220.

(3) No person may qualify for a distributor's license or a retailer's license under this section without first undergoing a criminal background check. The background check ((shall)) must be performed by the board and must disclose any criminal conduct within the previous five years in any state, tribal, or federal jurisdiction in the United States, its territories, or possessions. If the applicant or licensee also has a license issued under chapter 66.24 or 82.24 RCW, the background check done under the authority of chapter 66.24 or 82.24 RCW satisfies the requirements of this section.

(4) Each license issued under this chapter (~~(shall)~~) expires on the (~~(master)~~) business license expiration date. The license (~~(shall)~~) must be continued annually if the licensee has paid the required fee and complied with all the provisions of this chapter and the rules of the board adopted pursuant to this chapter.

(5) Each license and any other evidence of the license required under this chapter must be exhibited in each place of business for which it is issued and in the manner required for the display of a (~~(master)~~) business license.

Sec. 53. RCW 90.76.010 and 2011 c 298 s 39 are each amended to read as follows:

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

(a) "Department" means the department of ecology.

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

(c) "Facility compliance tag" means a marker, constructed of metal, plastic, or other durable material, that clearly identifies all qualifying underground storage tanks on the particular site for which it is issued.

(d) "Federal act" means the federal resource conservation and recovery act, as amended (42 U.S.C. Sec. 6901, et seq.).

(e) "Federal regulations" means the underground storage tanks regulations (40 C.F.R. Secs. 280 and 281) adopted by the United States environmental protection agency under the federal act.

(f) "License" means the (~~(master)~~) business license underground storage tank endorsement issued by the department of revenue under chapter 19.02 RCW.

(g) "Underground storage tank compliance act of 2005" means Title XV and subtitle B of P.L. 109-58 (42 U.S.C. Sec. 15801 et seq.) which have amended the federal resource conservation and recovery act's subtitle I.

(h) "Underground storage tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

(2) Except as provided in this section and any rules adopted by the department under this chapter, the definitions contained in the federal regulations apply to the terms in this chapter.

Sec. 54. RCW 90.76.020 and 2011 c 298 s 40 are each amended to read as follows:

(1) The department must adopt rules establishing requirements for all underground storage tanks that are regulated under the federal act, taking into account the various classes or categories of tanks to be regulated. The rules must be consistent with and no less stringent than the federal regulations and the underground storage tank compliance act of 2005 and consist of requirements for the following:

(a) New underground storage tank system design, construction, installation, and notification;

(b) Upgrading existing underground storage tank systems;

(c) General operating requirements;

(d) Release detection;

(e) Release reporting;

(f) Out-of-service underground storage tank systems and closure;

(g) Financial responsibility for underground storage tanks containing regulated substances; and

(h) Groundwater protection measures, including secondary containment and monitoring for installation or replacement of all underground storage tank systems or components, such as tanks and piping, installed after July 1, 2007, and under dispenser spill containment for installation or replacement of all dispenser systems installed after July 1, 2007.

(2) The department must adopt rules:

(a) Establishing physical site criteria to be used in designating local environmentally sensitive areas;

(b) Establishing procedures for local government application for this designation; and

(c) Establishing procedures for local government adoption and department approval of rules more stringent than the statewide standards in these designated areas.

(3) The department must establish by rule an administrative and enforcement program that is consistent with and no less stringent than the program required under the federal regulations in the areas of:

(a) Compliance monitoring, including procedures for recordkeeping and a program for systematic inspections;

(b) Enforcement;

(c) Public participation;

(d) Information sharing;

(e) Owner and operator training; and

(f) Delivery prohibition for underground storage tank systems or facilities that are determined by the department to be ineligible to receive regulated substances.

(4) The department must establish a program that provides for the annual licensing of underground storage tanks. The license must take the form of a tank endorsement on the facility's annual (~~master~~) business license issued by the department of revenue under chapter 19.02 RCW. A tank is not eligible for a license unless the owner or operator can demonstrate compliance with the requirements of this chapter and the annual tank fees have been remitted. The department may revoke a tank license if a facility is not in compliance with this chapter, or any rules adopted under this chapter. The (~~master~~) business license must be displayed by the tank owner or operator in a location clearly identifiable.

(5)(a) The department must issue a one-time "facility compliance tag" to underground storage tank facilities that have installed the equipment required to meet corrosion protection, spill prevention, overflow prevention, leak detection standards, have demonstrated financial responsibility, and have paid annual tank fees. The facility must continue to maintain compliance with corrosion protection, spill prevention, overflow prevention, and leak detection standards, financial responsibility, and have remitted annual tank fees to display a facility compliance tag. The facility compliance tag must be displayed on or near the fire emergency shutoff device, or in the absence of such a device in close proximity to the fill pipes and clearly identifiable to persons delivering regulated substance to underground storage tanks.

(b) The department may revoke a facility compliance tag if a facility is not in compliance with the requirements of this chapter, or any rules adopted under this chapter.

(6) The department may place a red tag on a tank at a facility if the department determines that the owner or operator is not in compliance with this chapter or the rules adopted under this chapter regarding the compliance requirements related to that tank. Removal of a red tag without authorization from the department is a violation of this chapter.

(7) The department may establish programs to certify persons who install or decommission underground storage tank systems or conduct inspections, testing, closure, cathodic protection, interior tank lining, corrective action, site assessments, or other activities required under this chapter. Certification programs must be designed to ensure that each certification will be effective in all jurisdictions of the state.

(8) When adopting rules under this chapter, the department must consult with the state building code council to ensure coordination with the building and fire codes adopted under chapter 19.27 RCW.

NEW SECTION. Sec. 55. The following acts or parts of acts are each repealed:

(1) RCW 19.02.220 (Combined licensing project—Report—Evaluation) and 1995 c 403 s 1006;

(2) RCW 19.02.810 (Master license system—Existing licenses or permits registered under, when) and 1982 c 182 s 46;

(3) RCW 19.80.065 (RCW 42.56.070(9) inapplicable) and 2005 c 274 s 236, 2000 c 171 s 59, & 1984 c 130 s 8; and

(4) RCW 43.24.160 (Registration of third-party administrators—Fee—Penalty—Rules) and 2010 c 174 s 9.

NEW SECTION. Sec. 56. The repeals in section 55 of this act do not affect any existing right acquired or liability or obligation incurred under the statutes repealed or under any rule or order adopted under them nor does it affect any proceedings instituted under them.

NEW SECTION. Sec. 57. Section 2 of this act takes effect July 1, 2014.

NEW SECTION. Sec. 58. Section 1 of this act expires July 1, 2014.

Passed by the House March 9, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 145

[Substitute House Bill 1617]

HOUSING TRUST FUND—ADMINISTRATION

AN ACT Relating to the administrative costs for the allocation, management, and oversight of housing trust fund investments; and amending RCW 43.185.020, 43.185.050, 43.185.070, 43.185A.010, 43.185A.030, and 43.185A.050.

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

Sec. 1. RCW 43.185.020 and 2009 c 565 s 37 are each amended to read as follows:

(1) "Contracted amount" means the aggregate amount of all state funds for which the department has monitoring and compliance responsibility.

(2) "Department" means the department of commerce.

(3) "Director" means the director of the department of commerce.

Sec. 2. RCW 43.185.050 and 2011 1st sp.s. c 50 s 953 are each amended to read as follows:

(1) The department (~~shall~~) must use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of these moneys used in any given funding cycle shall be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing; and

(k) Projects making housing more accessible to families with members who have disabilities(~~;~~and

~~(l) During the 2005-2007 fiscal biennium, a manufactured/mobile home landlord-tenant ombudsman conflict resolution and park registration program)).~~

~~(3) ((During the 2005-2007 fiscal biennium, revenues generated under RCW 36.22.178 may be used for the development of affordable housing projects and other activities funded in section 108, chapter 371, Laws of 2006.~~

(4)) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department.

~~((5))~~ (4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

~~((6))~~ (5) Administrative costs associated with application, distribution, and project development activities of the department ~~((shall))~~ may not exceed ~~((five))~~ three percent of the annual funds available for the housing assistance program ~~((, except during the 2011-2013 fiscal biennium when administrative costs associated with housing trust fund application, distribution, and project development activities may not exceed three percent of the annual funds available for the housing assistance program; administrative costs associated with compliance and monitoring activities of the department may not exceed one quarter of one percent annually of the contracted amount of state investment in the housing assistance program; and reappropriations may not be included in the calculation of the annual funds available for determining the administrative costs)).~~ Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(6) Administrative costs associated with compliance and monitoring activities of the department may not exceed one-quarter of one percent annually of the contracted amount of state investment in the housing assistance program.

Sec. 3. RCW 43.185.070 and 2012 c 235 s 1 are each amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department ~~((shall))~~ must announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement ~~((shall))~~ must be made as often as the director deems appropriate for proper utilization of resources. The department ~~((shall))~~ must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department ~~((Administrative costs paid out of the housing trust fund may not exceed five percent of annual revenues available for distribution to housing trust fund projects))~~ as provided in RCW 43.185.050.

(2) In awarding funds under this chapter, the department must:

(a) Provide for a geographic distribution on a statewide basis; and

(b) Until June 30, 2013, consider the total cost and per-unit cost of each project for which an application is submitted for funding under RCW 43.185.050(2) (a) and (j), as compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board, must report recommendations for awarding funds in a cost-effective manner. The report must include an implementation plan, timeline, and any other items the department identifies as important to consider to the legislature by December 1, 2012.

(4) The department (~~shall~~) must give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities (~~shall~~) must be evaluated under subsection (5) of this section. Second priority (~~shall~~) must be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities (~~shall~~) must be evaluated by some or all of the criteria under subsection (5) of this section, and similar projects and activities shall be evaluated under the same criteria.

(5) The department (~~shall~~) must give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities (~~shall~~) must be evaluated under the same criteria:

- (a) The degree of leveraging of other funds that will occur;
- (b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;
- (c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;
- (d) Local government project contributions in the form of infrastructure improvements, and others;
- (e) Projects that encourage ownership, management, and other project-related responsibility opportunities;
- (f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;
- (g) The applicant has the demonstrated ability, stability and resources to implement the project;
- (h) Projects which demonstrate serving the greatest need;
- (i) Projects that provide housing for persons and families with the lowest incomes;
- (j) Projects serving special needs populations which are under statutory mandate to develop community housing;
- (k) Project location and access to employment centers in the region or area;
- (l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020; and
- (m) Project location and access to available public transportation services.

(6) The department (~~shall~~) may only approve applications for projects for persons with mental illness that are consistent with a regional support network six-year capital and operating plan.

Sec. 4. RCW 43.185A.010 and 2009 c 565 s 38 are each amended to read as follows:

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

(1) "Affordable housing" means residential housing for rental occupancy which, as long as the same is occupied by low-income households, requires

payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income. The department ~~((shall))~~ must adopt policies for residential homeownership housing, occupied by low-income households, which specify the percentage of family income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

(2) "Contracted amount" has the same meaning as provided in RCW 43.185.020.

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

~~((3))~~ (4) "Director" means the director of the department of commerce.

~~((4))~~ (5) "First-time home buyer" means an individual or his or her spouse or domestic partner who have not owned a home during the three-year period prior to purchase of a home.

~~((5))~~ (6) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located.

Sec. 5. RCW 43.185A.030 and 2011 1st sp.s. c 50 s 954 are each amended to read as follows:

(1) Using moneys specifically appropriated for such purpose, the department shall finance in whole or in part projects that will provide housing for low-income households.

(2) Activities eligible for assistance include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of housing for low-income households;

(b) Rent subsidies in new construction or rehabilitated multifamily units;

(c) Down payment or closing costs assistance for first-time home buyers;

(d) Mortgage subsidies for new construction or rehabilitation of eligible multifamily units; and

(e) Mortgage insurance guarantee or payments for eligible projects.

(3) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2) (a), (c), (d), and (e) of this section, and not for the administrative costs of the department.

(4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the affordable housing program except for activities authorized under subsection (2)(b) of this section.

(5) Administrative costs associated with application, distribution, and project development activities of the department ~~((shall))~~ may not exceed ~~((four))~~ three percent of the annual funds available for the affordable housing program ~~((, except during the 2011-2013 fiscal biennium when administrative costs associated with housing trust fund application, distribution, and project development activities may not exceed three percent of the annual funds available for the housing assistance program; administrative costs associated with compliance and monitoring activities of the department may not exceed one quarter of one percent annually of the contracted amount of state investment in the housing assistance program; and reappropriations may not be included in the calculation of the annual funds available for determining the administrative~~

costs)). Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(6) Administrative costs associated with compliance and monitoring activities of the department may not exceed one-quarter of one percent annually of the contracted amount of state investment in the affordable housing program.

Sec. 6. RCW 43.185A.050 and 2012 c 235 s 2 are each amended to read as follows:

(1) During each calendar year in which funds are available for use by the department for the affordable housing program, the department (~~(shall)~~) must announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement (~~(shall)~~) must be made as often as the director deems appropriate for proper utilization of resources. The department (~~(shall)~~) must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department(~~(, not to exceed five percent of moneys appropriated to the affordable housing program))~~ as provided in RCW 43.185A.030.

(2) Until June 30, 2013, for applications submitted for funding under RCW 43.185A.030(2)(a), the department (~~(shall)~~) must consider total cost and per-unit cost of each project compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department (~~(shall)~~) must develop, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board:

(a) Additional criteria to evaluate applications for assistance under this chapter; and

(b) Recommendations for awarding funds under RCW 43.185A.030(2)(a) in a cost-effective manner, including an implementation plan, timeline, and any other items the department identifies as important to consider. The department must submit a report with the recommendations to the legislature by December 1, 2012.

Passed by the House March 4, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 146

[House Bill 1800]

PHARMACISTS—DRUG COMPOUNDING—DISTRIBUTION OR RESALE

AN ACT Relating to compounding of medications; amending RCW 18.64.270; reenacting and amending RCW 18.64.011; and declaring an emergency.

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

Sec. 1. RCW 18.64.011 and 2009 c 549 s 1008 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated when used in this chapter.

(1) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) "Board" means the Washington state board of pharmacy.

(3) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

(4) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(5) "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.

(6) "Department" means the department of health.

(7) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

(8) "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.

(9) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(10) The words "drug" and "devices" shall not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes, nor shall the word "drug" include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(11) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(12) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state. Health care entity includes a freestanding outpatient surgery center or a freestanding cardiac care center. It does not include an individual practitioner's office or a multipractitioner clinic.

(13) "Labeling" shall mean the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(14) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(15) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, personally prepares, compounds, packages, or labels such substance or device. "Manufacture" includes the distribution of a licensed pharmacy compounded drug product to other state licensed persons or commercial entities for subsequent resale or distribution, unless a specific product item has approval of the board. The term does not include:

(a) The activities of a licensed pharmacy that compounds a product on or in anticipation of an order of a licensed practitioner for use in the course of their professional practice to administer to patients, either personally or under their direct supervision;

(b) The practice of a licensed pharmacy when repackaging commercially available medication in small, reasonable quantities for a practitioner legally authorized to prescribe the medication for office use only;

(c) The distribution of a drug product that has been compounded by a licensed pharmacy to other appropriately licensed entities under common ownership or control of the facility in which the compounding takes place; or

(d) The delivery of finished and appropriately labeled compounded products dispensed pursuant to a valid prescription to alternate delivery locations, other than the patient's residence, when requested by the patient, or the prescriber to administer to the patient, or to another licensed pharmacy to dispense to the patient.

(16) "Manufacturer" shall mean a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(17) "Master license system" means the mechanism established by chapter 19.02 RCW by which master licenses, endorsed for individual state-issued licenses, are issued and renewed utilizing a master application and a master license expiration date common to each renewable license endorsement.

(18) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(19) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(20) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(21) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(22) The word "poison" shall not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(23) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(24) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(25) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(26) "Secretary" means the secretary of health or the secretary's designee.

(27) "Wholesaler" shall mean a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

Sec. 2. RCW 18.64.270 and 2003 c 53 s 137 are each amended to read as follows:

(1) Every proprietor of a wholesale or retail drug store shall be held responsible for the quality of all drugs, chemicals or medicines sold or dispensed by him or her except those sold in original packages of the manufacturer and except those articles or preparations known as patent or proprietary medicines.

(2) Any medicinal products that are compounded for patient administration or distribution to a licensed practitioner for patient use or administration shall, at a minimum, meet the standards of the official United States pharmacopeia as it applies to nonsterile products and sterile administered products.

(3) Any person who shall knowingly, willfully or fraudulently falsify or adulterate any drug or medicinal substance or preparation authorized or recognized by an official compendium or used or intended to be used in medical practice, or shall willfully, knowingly or fraudulently offer for sale, sell or cause the same to be sold for medicinal purposes, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not less than seventy-five nor more than one hundred and fifty dollars or by imprisonment in the county jail for a period of not less than one month nor more than three months, and any person convicted a third time for violation of this section may suffer both fine and imprisonment. In any case he or she shall forfeit to the state of Washington all drugs or preparations so falsified or adulterated.

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

Passed by the House April 22, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 147

[Substitute House Bill 1812]

URBAN SCHOOL TURNAROUND INITIATIVE GRANT

AN ACT Relating to expenditure limitations on the urban school turnaround initiative grant; amending 2012 2nd sp.s. c 7 s 501 (uncodified); and declaring an emergency.

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

Sec. 1. 2012 2nd sp.s. c 7 s 501 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

General Fund—State Appropriation (FY 2012)	\$25,322,000
General Fund—State Appropriation (FY 2013)	\$27,133,000
General Fund—Federal Appropriation	\$77,011,000
General Fund—Private/Local Appropriation	\$4,000,000
TOTAL APPROPRIATION	\$133,466,000

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

(1) A maximum of \$16,056,000 of the general fund—state appropriation for fiscal year 2012 and \$14,875,000 of the general fund—state appropriation for fiscal year 2013 is for state agency operations.

(a) \$9,692,000 of the general fund—state appropriation for fiscal year 2012 and \$8,169,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the operation and expenses of the office of the superintendent of public instruction.

(i) Within the amounts provided in this subsection (1)(a), the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award.

(ii) By January 1, 2012, the office of the superintendent of public instruction shall issue a report to the legislature with a timeline and an estimate of costs for implementation of the common core standards. The report must incorporate feedback from an open public forum for recommendations to enhance the standards, particularly in math.

(iii) Within the amounts provided, and in consultation with the public school employees of Washington and the Washington school counselors' association, the office of the superintendent of public instruction shall develop a model policy that further defines the recommended roles and responsibilities of graduation coaches and identifies best practices for how graduation coaches

work in coordination with school counselors and in the context of a comprehensive school guidance and counseling program.

(iv) The office of the superintendent of public instruction shall, no later than August 1, 2011, establish a standard statewide definition of unexcused absence. The definition shall be reported to the ways and means committees of the senate and house of representatives for legislative review in the 2012 legislative session. Beginning no later than January 1, 2012, districts shall report to the office of the superintendent of public instruction, daily student unexcused absence data by school.

(b) \$1,964,000 of the general fund—state appropriation for fiscal year 2012 and \$1,017,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for activities associated with the implementation of new school finance systems required by chapter 236, Laws of 2010 (K-12 education funding) and chapter 548, Laws of 2009 (state's education system), including technical staff, systems reprogramming, and work group deliberations, including the quality education council and the data governance working group.

(c) \$851,000 of the general fund—state appropriation for fiscal year 2012 and \$851,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(d) \$1,744,000 of the general fund—state appropriation for fiscal year 2012 and \$1,387,000 of the general fund—state appropriation for fiscal year 2013 are provided solely to the professional educator standards board for the following:

(i) \$1,050,000 in fiscal year 2012 and \$1,050,000 in fiscal year 2013 are for the operation and expenses of the Washington professional educator standards board; ~~((and))~~

(ii) \$694,000 of the general fund—state appropriation for fiscal year 2012 and \$312,000 of the general fund—state appropriation for fiscal year 2013 are for conditional scholarship loans and mentor stipends provided through the alternative routes to certification program administered by the professional educator standards board, including the pipeline for paraeducators program and the retooling to teach conditional loan programs. Funding within this subsection (1)(d)(ii) is also provided for the recruiting Washington teachers program. Funding reductions in this subsection (1)(d)(ii) in the 2011-2013 fiscal biennium are intended to be one-time; and

(iii) \$25,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for the professional educator standards board to develop educator interpreter standards and identify interpreter assessments that are available to school districts. Interpreter assessments should meet the following criteria: (A) Include both written assessment and performance assessment; (B) be offered by a national organization of professional sign language interpreters and transliterators; and (C) be designed to assess performance in more than one sign system or sign language. The board shall establish a performance standard, defining what constitutes a minimum assessment result, for each educational interpreter assessment identified. The board shall publicize the standards and assessments for school district use.

(e) \$133,000 of the general fund—state appropriation for fiscal year 2012 and \$133,000 of the general fund—state appropriation for fiscal year 2013 are

provided solely for the implementation of chapter 240, Laws of 2010, including staffing the office of equity and civil rights.

(f) \$50,000 of the general fund—state appropriation for fiscal year 2012 and \$50,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the ongoing work of the education opportunity gap oversight and accountability committee.

(g) \$45,000 of the general fund—state appropriation for fiscal year 2012 and \$45,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 380, Laws of 2009 (enacting the interstate compact on educational opportunity for military children).

(h) \$159,000 of the general fund—state appropriation for fiscal year 2012 and \$93,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 185, Laws of 2011 (bullying prevention), which requires the office of the superintendent of public instruction to convene an ongoing work group on school bullying and harassment prevention. Within the amounts provided, \$140,000 is for youth suicide prevention activities.

(i) \$1,227,000 of the general fund—state appropriation for fiscal year 2012 and \$1,227,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for implementing a comprehensive data system to include financial, student, and educator data, including development and maintenance of the comprehensive education data and research system (CEDARS).

(j) \$25,000 of the general fund—state appropriation for fiscal year 2012 and \$25,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for project citizen, a program sponsored by the national conference of state legislatures and the center for civic education to promote participation in government by middle school students.

(k) \$166,000 of the general fund—state appropriation for fiscal year 2012 is provided solely for the implementation of chapter 192, Laws of 2011 (school district insolvency). Funding is provided to develop a clear legal framework and process for dissolution of a school district.

(l) \$1,500,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for implementation of House Bill No. 2799 (collaborative schools). If such legislation is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(m) \$128,000 of the general fund—state appropriation for fiscal year 2013 is provided solely pursuant to Substitute House Bill No. 2254 (foster care outcomes). The office of the superintendent of public instruction shall report on the implementation of the state's plan of cross-system collaboration to promote educational stability and improve education outcomes of foster youth. The first report is due December 1, 2012, and annually thereafter through 2015. If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(n) \$250,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for implementation of House Bill No. 2337 (open K-12 education resources). If the bill is not enacted by June 30, 2012, the amount provided in this subsection shall lapse.

(2) \$9,267,000 of the general fund—state appropriation for fiscal year 2012 and \$12,267,000 of the general fund—state appropriation for fiscal year 2013 are for statewide programs.

(a) **HEALTH AND SAFETY**

(i) \$2,541,000 of the general fund—state appropriation for fiscal year 2012 and \$2,541,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) \$50,000 of the general fund—state appropriation for fiscal year 2012 and \$50,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for a nonviolence and leadership training program provided by the institute for community leadership.

(b) **TECHNOLOGY**

\$1,221,000 of the general fund—state appropriation for fiscal year 2012 and \$1,221,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(c) **GRANTS AND ALLOCATIONS**

(i) \$675,000 of the general fund—state appropriation for fiscal year 2012 and \$675,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(ii) \$1,000,000 of the general fund—state appropriation for fiscal year 2012 and \$1,000,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for contracting with a college scholarship organization with expertise in conducting outreach to students concerning eligibility for the Washington college bound scholarship consistent with chapter 405, Laws of 2007.

(iii) \$2,808,000 of the general fund—state appropriation for fiscal year 2012 and \$2,808,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the dissemination of the navigation 101 curriculum to all districts. The funding shall support electronic student planning tools and software for analyzing the impact of navigation 101 on student performance, as well as grants to a maximum of one hundred school districts each year, based on progress and need for the implementation of the navigation 101 program. The implementation grants shall be awarded to a cross-section of school districts reflecting a balance of geographic and demographic characteristics. Within the amounts provided, the office of the superintendent of public instruction will create a navigation 101 accountability model to analyze the impact of the program.

(iv) \$337,000 of the general fund—state appropriation for fiscal year 2012 and \$337,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for implementation of the building bridges statewide program for comprehensive dropout prevention, intervention, and reengagement strategies.

(v) \$135,000 of the general fund—state appropriation for fiscal year 2012 and \$135,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for dropout prevention programs at the office of the superintendent of public instruction, including the jobs for America's graduates (JAG) program.

(vi) \$500,000 of the general fund—state appropriation for fiscal year 2012 and \$1,400,000 of the general fund—state appropriation for fiscal year 2013 are provided solely for the implementation of chapter 340, Laws of 2011 (assessment of students in state-funded full-day kindergarten classrooms), including the development and implementation of the Washington kindergarten inventory of developing skills (WaKIDS). Of the amounts in this subsection, \$1,000,000 of the fiscal year 2013 appropriation is for the implementation of House Bill No. 2586 (kindergarten inventory). If the bill is not enacted by June 30, 2012, this amount shall lapse.

(vii) \$2,000,000 of the general fund—state appropriation for fiscal year 2013 is provided solely for an urban school turnaround initiative as follows:

(A) The office of the superintendent of public instruction shall select two schools in the largest urban school district in the state. The selected schools shall be among the state's lowest-performing schools; be located within the same community and form a continuum of education for the students in that community; have significant educational achievement gaps; and include a mix of elementary, middle, or high schools.

(B) The office shall allocate the funds under this subsection (2)(c)(vii) to the school district to be used exclusively in the selected schools. The district may not charge an overhead or indirect fee for the allocated funds or supplant other state, federal, or local funds in the selected schools. The school district shall use the funds for intensive supplemental instruction, services, and materials in the selected schools (~~in the 2012-13 school year~~), including but not limited to professional development for school staff; updated curriculum, materials, and technology; extended learning opportunities for students; reduced class size; summer enrichment activities; school-based health clinics; and other research-based initiatives to dramatically turn around the performance and close the achievement gap in the schools. The office shall enter into an expenditure agreement with the school district under which any funds under this subsection (2)(c)(vii) remaining unspent on August 31, 2015, shall be returned to the state. Priorities for the expenditure of the funds shall be determined by the leadership and staff of each school.

(C) The office shall monitor the activities in the selected schools and the expenditure of funds to ensure the intent of this subsection (2)(c)(vii) is met, and submit a report to the legislature by December 1, 2013, including outcomes resulting from the urban school turnaround initiative. The report submitted to the legislature must include a comparison of student learning achievement in the selected schools with schools of comparable demographics that have not participated in the grant program.

(D) Funding provided in this subsection (2)(c)(vii) is intended to be one-time.

(viii) \$100,000 of the general fund—state appropriation for fiscal year 2013 is provided solely to subsidize advanced placement exam fees and international baccalaureate class fees and exam fees for low-income students. To be eligible for the subsidy, a student must be either enrolled or eligible to participate in the federal free or reduced price lunch program, and the student must have maximized the allowable federal contribution. The office of the superintendent of public instruction shall set the subsidy in an amount so that the advanced placement exam fee does not exceed \$15.00 and the combined class and exam fee for the international baccalaureate does not exceed \$14.50.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 4, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 148

[Substitute House Bill 1822]

DEBT COLLECTION PRACTICES

AN ACT Relating to debt collection practices; amending RCW 19.16.100, 19.16.250, and 19.16.260; and providing an effective date.

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

Sec. 1. RCW 19.16.100 and 2003 c 203 s 1 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) "Person" includes individual, firm, partnership, trust, joint venture, association, or corporation.

(2) "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.

(3) "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.

(4) "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)).

(5) "Claim" means any obligation for the payment of money or thing of value arising out of any agreement or contract, express or implied.

(6) "Statement of account" means a report setting forth only amounts billed, invoices, credits allowed, or aged balance due.

(7) "Director" means the director of licensing.

(8) "Client" or "customer" means any person authorizing or employing a collection agency to collect a claim.

(9) "Licensee" means any person licensed under this chapter.

(10) "Board" means the Washington state collection agency board.

(11) "Debtor" means any person owing or alleged to owe a claim.

(12) "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.

Sec. 2. RCW 19.16.250 and 2011 1st sp.s. c 29 s 2 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (10)(e) of this section.

(4) Have in his or her possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the unauthorized practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or her or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form, other than through proper legal action, process, or proceedings, which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he or she is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall provide this name to the debtor or cease efforts to collect on the debt until this information is provided;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or her or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;

(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or her or its behalf or on the behalf of a customer or assignor; and

(vi) Any other charge or fee that the licensee is attempting to collect on his or her or its own behalf or on the behalf of a customer or assignor;

(d) If the notice, letter, message, or form concerns a judgment obtained against the debtor, no itemization of the amounts contained in the judgment is required, except postjudgment interest, if claimed, and the current account balance;

(e) If the notice, letter, message, or form is the first notice to the debtor, an itemization of the claim asserted must be made including the following information:

(i) The original account number or redacted original account number assigned to the debt, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided; and

(ii) The date of the last payment to the creditor on the subject debt by the debtor, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided.

(9) Communicate in writing with a debtor concerning a claim through a proper legal action, process, or proceeding, where such communication is the first written communication with the debtor, without providing the information set forth in subsection (8)(c) of this section in the written communication.

(10) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim. If the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall, upon receipt of written notice from the debtor that any part of the claim is disputed, notify the credit reporting bureau of the dispute by written or electronic means and create a record of the fact of the notification and when the notification was provided;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(e) A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his or her last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(11) Threaten the debtor with impairment of his or her credit rating if a claim is not paid: PROVIDED, That advising a debtor that the licensee has reported or intends to report a claim to a credit reporting agency is not considered a threat if the licensee actually has reported or intends to report the claim to a credit reporting agency.

(12) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or she or it again receives notification in writing that an attorney is representing the debtor.

(13) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive

language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week, unless the licensee is responding to a communication from the debtor or spouse;

(b) It is made with a debtor at his or her place of employment more than one time in a single week, unless the licensee is responding to a communication from the debtor;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m. A call to a telephone is presumed to be received in the local time zone to which the area code of the number called is assigned for landline numbers, unless the licensee reasonably believes the telephone is located in a different time zone. If the area code is not assigned to landlines in any specific geographic area, such as with toll-free telephone numbers, a call to a telephone is presumed to be received in the local time zone of the debtor's last known place of residence, unless the licensee reasonably believes the telephone is located in a different time zone.

(14) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(15) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(16) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(17) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made: PROVIDED, That:

(a) This subsection does not prohibit a licensee from attempting to communicate by way of a cellular telephone or other wireless device: PROVIDED, That a licensee cannot cause charges to be incurred to the recipient of the attempted communication more than three times in any calendar week when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call is made.

(b) The licensee is not in violation of (a) of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone.

(c) This subsection may not be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(18) Call, or send a text message or other electronic communication to, a cellular telephone or other wireless device more than twice in any day when the licensee knows or reasonably should know that the number belongs to a cellular telephone or other wireless device, unless the licensee is responding to a communication from the debtor or the person to whom the call, text message, or other electronic communication is made. The licensee is not in violation of this subsection if the licensee at least monthly updates its records with information provided by a commercial provider of cellular telephone lists that the licensee in good faith believes provides reasonably current and comprehensive data identifying cellular telephone numbers, calls a number not appearing in the most recent list provided by the commercial provider, and does not otherwise know or reasonably should know that the number belongs to a cellular telephone. Nothing in this subsection may be construed to increase the number of communications permitted pursuant to subsection (13)(a) of this section.

(19) Intentionally block its telephone number from displaying on a debtor's telephone.

(20) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(21) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs. A licensee may collect or attempt to collect collection costs and fees, including contingent collection fees, as authorized by a written agreement or contract, between the licensee's client and the debtor, in the collection of a commercial claim. The amount charged to the debtor for collection services shall not exceed thirty-five percent of the commercial claim.

(22) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, except as noted in subsection (21) of this section, and, in the case of suit, attorney's fees and taxable court costs.

(23) Bring an action or initiate an arbitration proceeding on a claim when the licensee knows, or reasonably should know, that such suit or arbitration is barred by the applicable statute of limitations.

(24) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee's attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the

checkbook, automated clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee's collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor's signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packeting debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has notified the licensee that the debtor disputes only some, but not all the debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, in which case the licensee shall be allowed to initiate oral contact with the debtor one time for each debt arising from the series of identified checks, automated clearinghouse transactions on a demand deposit account, or written instruments and initiate additional oral contact for those debts that the debtor acknowledges do not arise from stolen or fraudulently created checks or written instruments; (iv) the oral contact is in the context of a judicial, administrative, arbitration, mediation, or similar proceeding; or (v) the oral contact is made for the purpose of investigating, confirming, or authenticating the information received from the debtor, to provide additional information to the debtor, or to request additional information from the debtor needed by the licensee to accurately record the debtor's information in the licensee's records.

(25) Submit an affidavit or other request pursuant to chapter 6.32 RCW asking a superior or district court to transfer a bond posted by a debtor subject to a money judgment to the licensee, when the debtor has appeared as required.

Sec. 3. RCW 19.16.260 and 2011 c 336 s 521 are each amended to read as follows:

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.

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.

NEW SECTION. Sec. 4. Sections 1 and 3 of this act take effect October 1, 2013.

Passed by the House March 9, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 149

[Engrossed House Bill 1826]

ELECTRIC UTILITY RESOURCE PLANS—REQUIREMENTS

AN ACT Relating to updating integrated resource plan requirements to address changing energy markets; and amending RCW 19.280.010, 19.280.020, 19.280.030, and 19.280.060.

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

Sec. 1. RCW 19.280.010 and 2006 c 195 s 1 are each amended to read as follows:

It is the intent of the legislature to encourage the development of new safe, clean, and reliable energy resources to meet demand in Washington for affordable and reliable electricity. To achieve this end, the legislature finds it essential that electric utilities in Washington develop comprehensive resource plans that explain the mix of generation and demand-side resources they plan to use to meet their customers' electricity needs in both the short term and the long term. The legislature intends that information obtained from integrated resource planning under this chapter will be used to assist in identifying and developing: (1) New energy generation((:)); (2) conservation and efficiency resources((:)); (3) methods, commercially available technologies, and facilities for integrating renewable resources, including addressing any overgeneration event; and (4) related infrastructure to meet the state's electricity needs.

Sec. 2. RCW 19.280.020 and 2009 c 565 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) "Commission" means the utilities and transportation commission.

(2) "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.

(3) "Consumer-owned utility" includes 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, a mutual corporation or association formed under chapter

24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Department" means the department of commerce.

(5) "Electric utility" means a consumer-owned or investor-owned utility.

(6) "Full requirements customer" means an electric utility that relies on the Bonneville power administration for all power needed to supply its total load requirement other than that served by nondispatchable generating resources totaling no more than six megawatts or renewable resources.

(7) "Governing body" means the elected board of directors, city council, commissioners, or board of any consumer-owned utility.

(8) "High efficiency cogeneration" means the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output.

(9) "Integrated resource plan" means an analysis describing the mix of generating resources ~~(and)~~, conservation, methods, technologies, and resources to integrate renewable resources and, where applicable, address overgeneration events, and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers and that complies with the requirements specified in RCW 19.280.030(1).

(10) "Investor-owned utility" means a corporation owned by investors that meets the definition in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(11) "Lowest reasonable cost" means the lowest cost mix of generating resources and conservation and efficiency resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its ratepayers, public policies regarding resource preference adopted by Washington state or the federal government, and the cost of risks associated with environmental effects including emissions of carbon dioxide.

(12) "Plan" means either an "integrated resource plan" or a "resource plan."

(13) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) biomass energy utilizing animal waste, solid organic fuels from wood, forest, or field residues or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (g) by-products of pulping or wood manufacturing processes, including but not limited to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal power; or (i) gas from sewage treatment facilities.

(14) "Resource plan" means an assessment that estimates electricity loads and resources over a defined period of time and complies with the requirements in RCW 19.280.030(2).

(15) "Overgeneration event" means an event within an operating period of a balancing authority when the electricity supply, including generation from intermittent renewable resources, exceeds the demand for electricity for that

utility's energy delivery obligations and when there is a negatively priced regional market.

Sec. 3. RCW 19.280.030 and 2011 c 180 s 305 are each amended to read as follows:

Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers shall develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years or longer, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources. Such assessment may include, as appropriate, high efficiency cogeneration, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) An assessment of methods, commercially available technologies, or facilities for integrating renewable resources, and addressing overgeneration events, if applicable to the utility's resource portfolio;

(f) The integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs, including mitigating overgeneration events, at the lowest reasonable cost and risk to the utility and its ratepayers; and

~~((#))~~ (g) A short-term plan identifying the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; and

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not: (i) Renewable resources ~~((#))~~; (ii) methods, commercially available technologies, or facilities for integrating renewable resources, including addressing any overgeneration event; or (iii) conservation and efficiency resources, why such a decision was made.

(3) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(4) Resource plans developed under this section must be updated on a regular basis, at a minimum on intervals of two years.

(5) Plans shall not be a basis to bring legal action against electric utilities.

(6) Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

Sec. 4. RCW 19.280.060 and 2006 c 195 s 6 are each amended to read as follows:

The department shall review the plans of consumer-owned utilities and investor-owned utilities, and data available from other state, regional, and national sources, and prepare an electronic report to the legislature aggregating the data and assessing the overall adequacy of Washington's electricity supply. The report shall include a statewide summary of utility load forecasts, load/resource balance, and utility plans for the development of thermal generation, renewable resources, ~~((and))~~ conservation and efficiency resources, and an examination of assessment methods used by utilities to address overgeneration events. The commission shall provide the department with data summarizing the plans of investor-owned utilities for use in the department's statewide summary. The department may submit its report within the biennial report required under RCW 43.21F.045.

Passed by the House April 22, 2013.

Passed by the Senate April 17, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 150

[Substitute House Bill 1130]

IMPOUNDED VEHICLES—REDEMPTION

AN ACT Relating to the redemption of impounded vehicles; and amending RCW 46.55.120.

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

Sec. 1. RCW 46.55.120 and 2009 c 387 s 3 are each amended to read as follows:

(1)(a) Vehicles or other items of personal property registered or titled with the department that are impounded by registered tow truck operators pursuant to RCW 46.55.080, 46.55.085, 46.55.113, or 9A.88.140 may be redeemed only ~~((under the following circumstances))~~ by the following persons or entities:

~~((a-Only))~~ (i) The legal owner~~((;))~~;

(ii) The registered owner~~((;))~~;

(iii) A person authorized in writing by the registered owner ~~((or the vehicle's insurer,;))~~;

(iv) The vehicle's insurer or a vendor working on behalf of the vehicle's insurer;

(v) A third-party insurer that has a duty to repair or replace the vehicle, has obtained consent from the registered owner or the owner's agent to move the vehicle, and has documented that consent in the insurer's claim file, or a vendor

working on behalf of a third-party insurer that has received such consent; provided, however, that at all times the registered owner must be granted access to and may reclaim possession of the vehicle. For the purposes of this subsection, "owner's agent" means the legal owner of the vehicle, a driver in possession of the vehicle with the registered owner's permission, or an adult member of the registered owner's family;

(vi) A person who is determined and verified by the operator to have the permission of the registered owner of the vehicle or other item of personal property registered or titled with the department~~((-or one)); or~~

(vii) A person who has purchased a vehicle or item of personal property registered or titled with the department from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor~~((-may redeem an impounded vehicle or items of personal property registered or titled with the department)).~~

(b) In addition, a vehicle impounded because the operator is in violation of RCW 46.20.342(1)(c) shall not be released until a person eligible to redeem it under (a) of this subsection ~~((+(a)))~~ satisfies the requirements of ~~((+))~~ (f) of this subsection, including paying all towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency. If the department's records show that the operator has been convicted of a violation of RCW 46.20.342 or a similar local ordinance within the past five years, the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. A vehicle impounded because the operator is arrested for a violation of RCW 46.20.342 may be released only pursuant to a written order from the agency that ordered the vehicle impounded or from the court having jurisdiction. An agency shall issue a written order to release pursuant to a provision of an applicable state agency rule or local ordinance authorizing release on the basis of the following:

(i) Economic or personal hardship to the spouse of the operator, taking into consideration public safety factors, including the operator's criminal history and driving record; or

(ii) The owner of the vehicle was not the driver, the owner did not know that the driver's license was suspended or revoked, and the owner has not received a prior release under this subsection or RCW 46.55.113(3).

In order to avoid discriminatory application, other than for the reasons for release set forth in ~~((+))~~ (b)(i) and (ii) of this subsection, an agency shall, under a provision of an applicable state agency rule or local ordinance, deny release in all other circumstances without discretion.

If a vehicle is impounded because the operator is in violation of RCW 46.20.342(1) (a) or (b), the vehicle may be held for up to thirty days at the written direction of the agency ordering the vehicle impounded. However, if the department's records show that the operator has been convicted of a violation of RCW 46.20.342(1) (a) or (b) or a similar local ordinance within the past five years, the vehicle may be held at the written direction of the agency ordering the vehicle impounded for up to sixty days, and for up to ninety days if the operator has two or more such prior offenses. If a vehicle is impounded because the operator is arrested for a violation of RCW 46.20.342, the vehicle may not be released until a person eligible to redeem it under (a) of this subsection ~~((+(a)))~~ satisfies the requirements of ~~((+))~~ (f) of this subsection, including paying all

towing, removal, and storage fees, notwithstanding the fact that the hold was ordered by a government agency.

~~((b))~~ (c) If the vehicle is directed to be held for a suspended license impound, a person who desires to redeem the vehicle at the end of the period of impound shall within five days of the impound at the request of the tow truck operator pay a security deposit to the tow truck operator of not more than one-half of the applicable impound storage rate for each day of the proposed suspended license impound. The tow truck operator shall credit this amount against the final bill for removal, towing, and storage upon redemption. The tow truck operator may accept other sufficient security in lieu of the security deposit. If the person desiring to redeem the vehicle does not pay the security deposit or provide other security acceptable to the tow truck operator, the tow truck operator may process and sell at auction the vehicle as an abandoned vehicle within the normal time limits set out in RCW 46.55.130(1). The security deposit required by this section may be paid and must be accepted at any time up to twenty-four hours before the beginning of the auction to sell the vehicle as abandoned. The registered owner is not eligible to purchase the vehicle at the auction, and the tow truck operator shall sell the vehicle to the highest bidder who is not the registered owner.

~~((e))~~ (d) Notwithstanding ~~((b))~~ (c) of this subsection, a rental car business may immediately redeem a rental vehicle it owns by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound.

~~((d))~~ (e) Notwithstanding ~~((b))~~ (c) of this subsection, a motor vehicle dealer or lender with a perfected security interest in the vehicle may redeem or lawfully repossess a vehicle immediately by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound. A motor vehicle dealer or lender with a perfected security interest in the vehicle may not knowingly and intentionally engage in collusion with a registered owner to repossess and then return or resell a vehicle to the registered owner in an attempt to avoid a suspended license impound. However, this provision does not preclude a vehicle dealer or a lender with a perfected security interest in the vehicle from repossessing the vehicle and then selling, leasing, or otherwise disposing of it in accordance with chapter 62A.9A RCW, including providing redemption rights to the debtor under RCW 62A.9A-623. If the debtor is the registered owner of the vehicle, the debtor's right to redeem the vehicle under chapter 62A.9A RCW is conditioned upon the debtor obtaining and providing proof from the impounding authority or court having jurisdiction that any fines, penalties, and forfeitures owed by the registered owner, as a result of the suspended license impound, have been paid, and proof of the payment must be tendered to the vehicle dealer or lender at the time the debtor tenders all other obligations required to redeem the vehicle. Vehicle dealers or lenders are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound.

~~((e))~~ (f) The vehicle or other item of personal property registered or titled with the department shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle, with credit being given for

the amount of any security deposit paid under ~~((b))~~ (c) of this subsection. In addition, if a vehicle is impounded because the operator was arrested for a violation of RCW 46.20.342 or 46.20.345 and was being operated by the registered owner when it was impounded under local ordinance or agency rule, it must not be released to any person until the registered owner establishes with the agency that ordered the vehicle impounded or the court having jurisdiction that any penalties, fines, or forfeitures owed by him or her have been satisfied. Registered tow truck operators are not liable for damages if they rely in good faith on an order from the impounding agency or a court in releasing a vehicle held under a suspended license impound. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards issued by financial institutions, or personal checks drawn on Washington state branches of financial institutions if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. If the towing firm cannot determine through the customer's bank or a check verification service that the presented check would be paid by the bank or guaranteed by the service, the towing firm may refuse to accept the check. Any person who stops payment on a personal check or credit card, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2)(a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle, or item of personal property registered or titled with the department, written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. The municipal court has jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the appropriate court within ten days of the date the opportunity was provided for in ~~((subsection (2))~~(a) of this subsection and more than five days before the date of the auction. At the time of the filing of the hearing request, the petitioner shall pay to the court clerk a filing fee in the same amount required for the filing of a suit in district court. If the hearing request is not received by the court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle or other item of personal property registered or titled with the department, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper. The court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.

(c) At the conclusion of the hearing, the court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees. The court may not adjust fees or charges that are in compliance with the posted or contracted rates.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be in violation of this chapter, then the registered and legal owners of the vehicle or other item of personal property registered or titled with the department shall bear no impoundment, towing, or storage fees, and any security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the registered tow truck operator against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle, or other item of personal property registered or titled with the department, for the amount of the filing fee required by law for the impound hearing petition as well as reasonable damages for loss of the use of the vehicle during the time the same was impounded against the person or agency authorizing the impound. However, if an impoundment arising from an alleged violation of RCW 46.20.342 or 46.20.345 is determined to be in violation of this chapter, then the law enforcement officer directing the impoundment and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the records of the department in ascertaining that the operator of the vehicle had a suspended or revoked driver's license. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:

TO:

YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the Court located at in the sum of \$., in an action entitled, Case No. YOU ARE FURTHER NOTIFIED that attorneys fees and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.

DATED this day of, (year) . . .

Signature

Typed name and address
of party mailing notice

(4) Any impounded abandoned vehicle or item of personal property registered or titled with the department that is not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(3) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle or item of personal property registered or titled with the department may be redeemed at any time before the start of the auction upon payment of the applicable towing and storage fees.

Passed by the House April 25, 2013.

Passed by the Senate April 24, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 151

[Substitute House Bill 1144]

EDUCATIONAL INTERPRETERS

AN ACT Relating to qualifications for educational interpreters; adding a new section to chapter 28A.410 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 although the professional educator standards board has begun work on standards and assessments for educational interpreters as directed by the 2012 supplemental operating budget, there is a need formally to codify this as an ongoing responsibility. The legislature also intends to specify how the standards and assessments will be used to improve learning opportunities for students who are deaf, deaf-blind, or hearing impaired.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.410 RCW to read as follows:

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

(a) "Educational interpreters" means school district employees, whether certificated or classified, providing sign language translation and further explanation of concepts introduced by the teacher for students who are deaf, deaf-blind, or hearing impaired.

(b) "Educational interpreter assessment" means an assessment that includes both written assessment and performance assessment that is offered by a national

organization of professional sign language interpreters and transliterators, and is designed to assess performance in more than one sign system or sign language.

(2) The professional educator standards board shall adopt standards for educational interpreters and identify and publicize educational interpreter assessments that are available and meet the definition in this section. The board shall establish a performance standard for each educational interpreter assessment for the purposes of this section, defining what constitutes a minimum assessment result.

(3) By the beginning of the 2016-17 school year, educational interpreters who are employed by school districts must have successfully achieved the performance standard established by the professional educator standards board on one of the educational interpreter assessments identified by the board.

(4) By December 31, 2013, the professional educator standards board shall recommend to the education committees of the house of representatives and the senate, how to appropriately use the national interpreter certification and the educational interpreter performance assessment for educational interpreters in Washington public schools.

(5) The provisions of this section do not apply to educational interpreters employed to interpret a sign system or sign language for which no educational interpreter assessment has been identified by the professional educator standards board.

Passed by the House April 22, 2013.

Passed by the Senate April 16, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 152

[Substitute Senate Bill 5008]

INSURANCE—PORTABLE ELECTRONICS

AN ACT Relating to portable electronics insurance; amending RCW 48.18.103, 48.19.040, 48.19.043, 48.120.015, 48.120.020, 48.120.020, 48.120.020, and 48.120.025; adding a new section to chapter 48.18 RCW; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 48.18.103 and 2006 c 8 s 215 are each amended to read as follows:

(1) It is the intent of the legislature to assist the purchasers of commercial property casualty insurance by allowing policies to be issued more expeditiously and provide a more competitive market for forms.

(2) Commercial property casualty policies may be issued prior to filing the forms.

(3) All commercial property casualty forms must be filed with the commissioner within thirty days after an insurer issues any policy using them. This subsection does not apply to:

(a) Types or classes of forms that the commissioner exempts from filing by rule; and

(b) Manuscript policies, riders, or endorsements of unique character designed for and used with relation to insurance upon a particular subject.

(4) If, within thirty days after a commercial property casualty form has been filed, the commissioner finds that the form does not meet the requirements of this chapter, the commissioner shall disapprove the form and give notice to the insurer or rating organization that made the filing, specifying how the form fails to meet the requirements and stating when, within a reasonable period thereafter, the form shall be deemed no longer effective. The commissioner may extend the time for review an additional fifteen days by giving notice to the insurer prior to the expiration of the original thirty-day period.

(5) Upon a final determination of a disapproval of a policy form under subsection (4) of this section, the insurer must amend any previously issued disapproved form by endorsement to comply with the commissioner's disapproval.

(6) For purposes of this section, "commercial property casualty" means insurance pertaining to a business, profession, occupation, nonprofit organization, or public entity for the lines of property and casualty insurance defined in RCW 48.11.040, 48.11.050, 48.11.060, or 48.11.070, but does not mean medical malpractice insurance or portable electronics insurance as defined in RCW 48.120.005.

(7) Except as provided in subsection (5) of this section, the disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in the notice of disapproval.

(8) Every member or subscriber to a rating organization must adhere to the form filings made on its behalf by the organization. An insurer may deviate from forms filed on its behalf by an organization only if the insurer files the forms with the commissioner in accordance with this chapter.

(9) In the event a hearing is held on the actions of the commissioner under subsection (4) of this section, the burden of proof shall be on the commissioner.

Sec. 2. RCW 48.19.040 and 2012 c 222 s 1 are each amended to read as follows:

(1) Every insurer or rating organization shall, before using, file with the commissioner every classifications manual, manual of rules and rates, rating plan, rating schedule, minimum rate, class rate, and rating rule, and every modification of any of the foregoing which it proposes. The insurer need not so file any rate on individually rated risks as described in subdivision (1) of RCW 48.19.030; except that any such specific rate made by a rating organization shall be filed.

(2) Every such filing shall indicate the type and extent of the coverage contemplated and must be accompanied by sufficient information to permit the commissioner to determine whether it meets the requirements of this chapter. An insurer or rating organization shall offer in support of any filing:

(a) The experience or judgment of the insurer or rating organization making the filing;

(b) An exhibit detailing the major elements of operating expense for the types of insurance affected by the filing;

(c) An explanation of how investment income has been taken into account in the proposed rates; and

(d) Any other information which the insurer or rating organization deems relevant.

(3) If an insurer has insufficient loss experience to support its proposed rates, it may submit:

(a) Loss experience for similar exposures of other insurers or of a rating organization; or

(b) A complete and logical explanation of how it has developed its proposed rates, including the insurer's analysis of any relevant information and showing why the proposed rates should be considered to meet the requirements of RCW 48.19.020.

(4) Every such filing shall state its proposed effective date.

(5)(a) A filing made pursuant to this chapter shall be exempt from the provisions of RCW 48.02.120(3). However, the filing and all supporting information accompanying it shall be open to public inspection only after the filing becomes effective, except as provided in (b) of this subsection.

(b) For the purpose of this section, "usage-based insurance" means private passenger automobile coverage that uses data gathered from any recording device as defined in RCW 46.35.010, or a system, or business method that records and preserves data arising from the actual usage of a motor vehicle to determine rates or premiums. Information in a filing of usage-based insurance about the usage-based component of the rate is confidential and must be withheld from public inspection.

(6) Where a filing is required no insurer shall make or issue an insurance contract or policy except in accordance with its filing then in effect, except as is provided by RCW 48.19.090.

Sec. 3. RCW 48.19.043 and 2006 c 8 s 216 are each amended to read as follows:

(1) It is the intent of the legislature to assist the purchasers of commercial property casualty insurance by allowing policies to be issued more expeditiously and provide a more competitive market for rates.

(2) Notwithstanding the provisions of RCW 48.19.040(1), commercial property casualty policies may be issued prior to filing the rates. All commercial property casualty rates shall be filed with the commissioner within thirty days after an insurer issues any policy using them.

(3) If, within thirty days after a commercial property casualty rate has been filed, the commissioner finds that the rate does not meet the requirements of this chapter, the commissioner shall disapprove the filing and give notice to the insurer or rating organization that made the filing, specifying how the filing fails to meet the requirements and stating when, within a reasonable period thereafter, the filing shall be deemed no longer effective. The commissioner may extend the time for review another fifteen days by giving notice to the insurer prior to the expiration of the original thirty-day period.

(4) Upon a final determination of a disapproval of a rate filing under subsection (3) of this section, the insurer shall issue an endorsement changing the rate to comply with the commissioner's disapproval from the date the rate is no longer effective.

(5) For purposes of this section, "commercial property casualty" means insurance pertaining to a business, profession, occupation, nonprofit organization, or public entity for the lines of property and casualty insurance defined in RCW 48.11.040, 48.11.050, 48.11.060, or 48.11.070, but does not

mean medical malpractice insurance or portable electronics insurance as defined in RCW 48.120.005.

(6) Except as provided in subsection (4) of this section, the disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in the notice of disapproval.

(7) In the event a hearing is held on the actions of the commissioner under subsection (3) of this section, the burden of proof is on the commissioner.

Sec. 4. RCW 48.120.015 and 2012 c 154 s 3 are each amended to read as follows:

(1) A specialty producer license authorizes a vendor and its employees and authorized representatives to offer and sell to, enroll in, and bill and collect premiums from customers for insurance covering portable electronics on a master, corporate, group commercial inland marine policy, or on an individual policy basis on a month-to-month or other periodic basis at each location at which the vendor engages in portable electronics transactions. However:

(a) The supervising person must maintain a list of a vendor's locations that are authorized to sell or solicit portable electronics insurance coverage; and

(b) The list under (a) of this subsection must be provided to the commissioner within ten days of a request by the commissioner.

(2) An employee or authorized representative of a vendor may sell or offer portable electronics insurance to the vendor's customers without being individually licensed as an insurance producer if the vendor is licensed under this chapter and is acting in compliance with this chapter and any rules adopted by the commissioner.

(3) A vendor billing and collecting premiums from customers for portable electronics insurance coverage is not required to maintain these funds in a segregated account if the vendor:

(a) Is authorized by the insurer to hold the funds in an alternative manner; and

(b) Remits the funds to the supervising person within sixty days of receipt.

(4) All funds received by a vendor from an enrolled customer for the sale of portable electronics insurance are considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer.

(5) Any charge to the enrolled customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or related services must be separately itemized on the enrolled customer's bill.

(6) If portable electronics insurance coverage is included with the purchase or lease of portable electronics or related services, the vendor must clearly and conspicuously disclose to the enrolled customer that the portable electronics insurance coverage is included with the portable electronics or related services.

(7) Vendors may receive compensation for billing and collection services.

Sec. 5. RCW 48.120.020 and 2012 c 154 s 4 are each amended to read as follows:

(1) A vendor issued a specialty producer license may not issue insurance under RCW 48.120.015 unless:

(a) At every location where customers are enrolled in portable electronics insurance programs, written material regarding the program is made available to prospective customers that:

(i) Discloses that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

(ii) States that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

(iii) Summarizes the material terms of the insurance coverage, including the identity of the insurer, the identity of the supervising person, the amount of any applicable deductible and how it is to be paid, benefits of the coverage, and key terms and conditions of coverage, such as whether portable electronics may be replaced with a similar make and model or reconditioned make and model or repaired with nonoriginal manufacturer parts or equipment;

(iv) Summarizes the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements; and

(v) States that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium will receive a refund or credit of any applicable unearned premium; ~~((and))~~

(b)(i) The written materials required by (a) of this subsection disclose with specificity under what circumstances and subject to what limitations an insurer may cancel, terminate, modify, or otherwise change the terms and conditions of a policy of portable electronics insurance; or

(ii) Within a reasonable time from the date of purchase, materials are delivered to an enrolled customer that state with specificity under what circumstances and subject to what limitations an insurer may cancel, terminate, modify, or otherwise change the terms and conditions of a policy of portable electronics insurance; and

(c) The portable electronics insurance program is operated with the participation of a supervising person who, with authorization and approval from the appointing insurer, supervises a training program for employees of the licensed vendor. The training must comply with the following:

(i) The training must be delivered to employees and authorized representatives of vendors who are directly engaged in the activity of selling or offering portable electronics insurance;

(ii) The training may be provided in electronic form. However, if conducted in an electronic form, the supervising person must implement a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising person; and

(iii) Each employee and authorized representative must receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under this section.

(2) No employee or authorized representative of a vendor of portable electronics may advertise, represent, or otherwise hold himself or herself out as a nonlimited lines licensed insurance producer.

(3) Employees and authorized representatives of a vendor issued a specialty producer license may only act on behalf of the vendor in the offer, sale, solicitation, or enrollment of customers in a portable electronics insurance program. The conduct of these employees and authorized representatives within

the scope of their employment or agency is the same as conduct of the vendor for purposes of this title.

Sec. 6. RCW 48.120.020 and 2012 c 154 s 4 are each amended to read as follows:

(1) A vendor issued a specialty producer license may not issue insurance under RCW 48.120.015 unless:

(a) At every location where customers are enrolled in portable electronics insurance programs, written material regarding the program is made available to prospective customers that:

(i) Discloses that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

(ii) States that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

(iii) Summarizes the material terms of the insurance coverage, including the identity of the insurer, the identity of the supervising person, the amount of any applicable deductible and how it is to be paid, benefits of the coverage, and key terms and conditions of coverage, such as whether portable electronics may be replaced with a similar make and model or reconditioned make and model or repaired with nonoriginal manufacturer parts or equipment;

(iv) Summarizes the process for filing a claim, including a description of how to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements; (~~and~~)

(v) States that an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium will receive a refund or credit of any applicable unearned premium; and

(vi) Discloses with specificity under what circumstances and subject to what limitations an insurer may cancel, terminate, modify, or otherwise change the terms and conditions of a policy of portable electronics insurance; and

(b) The portable electronics insurance program is operated with the participation of a supervising person who, with authorization and approval from the appointing insurer, supervises a training program for employees of the licensed vendor. The training must comply with the following:

(i) The training must be delivered to employees and authorized representatives of vendors who are directly engaged in the activity of selling or offering portable electronics insurance;

(ii) The training may be provided in electronic form. However, if conducted in an electronic form, the supervising person must implement a supplemental education program regarding the portable electronics insurance product that is conducted and overseen by licensed employees of the supervising person; and

(iii) Each employee and authorized representative must receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under this section.

(2) No employee or authorized representative of a vendor of portable electronics may advertise, represent, or otherwise hold himself or herself out as a nonlimited lines licensed insurance producer.

(3) Employees and authorized representatives of a vendor issued a specialty producer license may only act on behalf of the vendor in the offer, sale, solicitation, or enrollment of customers in a portable electronics insurance program. The conduct of these employees and authorized representatives within the scope of their employment or agency is the same as conduct of the vendor for purposes of this title.

Sec. 7. RCW 48.120.025 and 2002 c 357 s 5 are each amended to read as follows:

(1) A vendor issued a specialty producer license under this chapter is subject to RCW (~~(48.17.540)~~) 48.17.530 through 48.17.560.

(2) The commissioner may adopt rules necessary for the implementation of this chapter, including, but not limited to, rules governing:

(a) The specialty producer license application process, including any forms required to be used;

(b) The standards for approval and the required content of written materials required under RCW 48.120.020(1)(a);

(c) The approval and required content of training materials required under RCW 48.120.020(1)(~~(b)~~) (c);

(d) Establishing license fees to defray the cost of administering the specialty producer licensure program;

(e) Establishing requirements for the remittance of premium funds to the supervising agent under authority from the program insurer; and

(f) Determining the applicability or nonapplicability of other provisions of this title to this chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 48.18 RCW to read as follows:

(1) The cancellation provisions in RCW 48.18.290 and the nonrenewal provisions in RCW 48.18.2901 apply to portable electronics insurance policies issued under chapter 48.120 RCW, unless inconsistent with this section in which case this section controls.

(2) An insurer may cancel, nonrenew, modify, or otherwise change the terms and conditions of a policy of portable electronics only:

(a) Upon providing the policyholder and enrolled customers with at least thirty days' notice; or

(b) As provided in subsections (5) through (7) of this section.

(3) An insurer may not increase premiums or deductibles or otherwise restrict benefits more than once in any six-month period.

(4) If an insurer changes the terms and conditions, then the insurer must provide:

(a) The vendor policyholder with a revised policy endorsement; and

(b) Each enrolled customer with:

(i) A revised certificate or endorsement and a summary of material changes; or

(ii) If the change is limited to a change in premium, a revised certificate, endorsement, updated brochure, or other evidence indicating a change in premium.

(5) An insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon fifteen days' notice for discovery of

fraud or material misrepresentation in obtaining coverage or in the presentation of a claim.

(6) An insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon ten days' notice for nonpayment of premium.

(7) An insurer may immediately terminate an enrolled customer's enrollment under a portable electronics insurance policy:

(a) Without notice, if the enrolled customer ceases to have an active service with the vendor of portable electronics; or

(b) Without prior notice if an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within thirty calendar days after exhaustion of the limit. However, if notice is not timely sent, coverage continues notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.

(8) If a policy of portable electronics insurance is being cancelled or terminated by the insurer, the notice must include the insurer's actual reason for cancellation or termination.

(9) When a portable electronics insurance policy is terminated by a policyholder, the insurer must mail or deliver written notice to each enrolled customer advising the enrolled customer of the termination of the policy and the effective date of termination. The written notice must be mailed or delivered to the enrolled customer at least thirty days prior to the termination. The written notice must include the actual reason for the termination. However, if the policyholder is a vendor licensed as a specialty producer pursuant to RCW 48.120.010, the notice required by this subsection must be mailed or delivered by the vendor.

(10) Any notice or correspondence with respect to a policy of portable electronics insurance required under this section or otherwise required by law must be in writing. Notice or correspondence may be sent either by mail or by electronic means. If the notice or correspondence is mailed, it must be sent to the vendor of portable electronics at the vendor's mailing address specified for that purpose and to its affected enrolled customers' last known mailing addresses on file with the insurer.

The insurer or vendor of portable electronics must maintain proof of mailing in a form authorized or accepted by the United States postal service or other commercial mail delivery service. If a notice or correspondence is sent by electronic means, it must be sent to the vendor of portable electronics at the vendor's electronic mail address specified for that purpose and to its affected enrolled customers' last known electronic mail address as provided by each enrolled customer to the insurer or vendor of portable electronics, as the case may be.

For purposes of this subsection, an enrolled customer's provision of an electronic mail address to the insurer, supervising person, or vendor of portable electronics means that the enrolled customer consents to receive notices and correspondence by electronic mail as long as a disclosure to that effect is provided to the consumer at the time the consumer provides an electronic mail address. The insurer or vendor of portable electronics, as the case may be, must maintain proof that the notice or correspondence was sent.

(11) Notice or correspondence required by this section or otherwise required by law may be sent by the supervising person appointed by the insurer on behalf of an insurer or a vendor.

NEW SECTION. Sec. 9. Section 5 of this act expires July 1, 2015.

NEW SECTION. Sec. 10. Section 6 of this act takes effect July 1, 2015.

Passed by the Senate February 20, 2013.

Passed by the House April 15, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

CHAPTER 153

[Substitute Senate Bill 5022]

CRIMES—RETAIL THEFT

AN ACT Relating to changing retail theft with extenuating circumstances to retail theft with special circumstances; amending RCW 9A.56.360; reenacting and amending RCW 9.94A.515; prescribing penalties; and providing an effective date.

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

Sec. 1. RCW 9A.56.360 and 2006 c 277 s 3 are each amended to read as follows:

(1) A person commits retail theft with ~~((extenuating))~~ special circumstances if he or she commits theft of property from a mercantile establishment with one of the following ~~((extenuating))~~ special circumstances:

(a) To facilitate the theft, the person leaves the mercantile establishment through a designated emergency exit;

(b) The person was, at the time of the theft, in possession of an item, article, implement, or device designed to overcome security systems including, but not limited to, lined bags or tag removers; or

(c) The person committed theft at three or more separate and distinct mercantile establishments within a one hundred eighty-day period.

(2) A person is guilty of retail theft with ~~((extenuating))~~ special circumstances in the first degree if the theft involved constitutes theft in the first degree. Retail theft with ~~((extenuating))~~ special circumstances in the first degree is a class B felony.

(3) A person is guilty of retail theft with ~~((extenuating))~~ special circumstances in the second degree if the theft involved constitutes theft in the second degree. Retail theft with ~~((extenuating))~~ special circumstances in the second degree is a class C felony.

(4) A person is guilty of retail theft with ~~((extenuating))~~ special circumstances in the third degree if the theft involved constitutes theft in the third degree. Retail theft with ~~((extenuating))~~ special circumstances in the third degree is a class C felony.

(5) For the purposes of this section, "special circumstances" means the particular aggravating circumstances described in subsection (1)(a) through (c) of this section.

Sec. 2. RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are each reenacted and amended to read as follows:

TABLE 2
 CRIMES INCLUDED WITHIN EACH
 SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
- XV Homicide by abuse (RCW 9A.32.055)
 Malicious explosion 1 (RCW 70.74.280(1))
 Murder 1 (RCW 9A.32.030)
- XIV Murder 2 (RCW 9A.32.050)
 Trafficking 1 (RCW 9A.40.100(1))
- XIII Malicious explosion 2 (RCW 70.74.280(2))
 Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
 Assault of a Child 1 (RCW 9A.36.120)
 Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
 Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
 Rape 1 (RCW 9A.44.040)
 Rape of a Child 1 (RCW 9A.44.073)
 Trafficking 2 (RCW 9A.40.100(2))
- XI Manslaughter 1 (RCW 9A.32.060)
 Rape 2 (RCW 9A.44.050)
 Rape of a Child 2 (RCW 9A.44.076)
 Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- X Child Molestation 1 (RCW 9A.44.083)
 Criminal Mistreatment 1 (RCW 9A.42.020)
 Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
 Kidnapping 1 (RCW 9A.40.020)
 Leading Organized Crime (RCW 9A.82.060(1)(a))

- Malicious explosion 3 (RCW 70.74.280(3))
- Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
- Assault of a Child 2 (RCW 9A.36.130)
- Explosive devices prohibited (RCW 70.74.180)
- Hit and Run—Death (RCW 46.52.020(4)(a))
- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW 70.74.270(2))
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- VIII Arson 1 (RCW 9A.48.020)
- Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Promoting Prostitution 1 (RCW 9A.88.070)
- Theft of Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Civil Disorder Training (RCW 9A.48.120)

- Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
- Rape of a Child 3 (RCW 9A.44.079)

- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Driving While Under the Influence (RCW 46.61.502(6))
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))

- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)

- Influencing Outcome of Sporting Event
(RCW 9A.82.070)
- Malicious Harassment (RCW
9A.36.080)
- Possession of Depictions of a Minor
Engaged in Sexually Explicit
Conduct 2 (RCW 9.68A.070(2))
- Residential Burglary (RCW
9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW
9A.82.050)
- Unlawful factoring of a credit card or
payment card transaction (RCW
9A.56.290(4)(b))
- Unlawful transaction of health
coverage as a health care service
contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage
as a health maintenance
organization (RCW 48.46.033(3))
- Unlawful transaction of insurance
business (RCW 48.15.023(3))
- Unlicensed practice as an insurance
professional (RCW 48.17.063(2))
- Use of Proceeds of Criminal
Profiteering (RCW 9A.82.080 (1)
and (2))
- Vehicle Assault, by being under the
influence of intoxicating liquor or
any drug, or by the operation or
driving of a vehicle in a reckless
manner (RCW 46.61.522)
- Viewing of Depictions of a Minor
Engaged in Sexually Explicit
Conduct 1 (RCW 9.68A.075(1))
- Willful Failure to Return from Furlough
(RCW 72.66.060)

- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
 - Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
 - Assault of a Child 3 (RCW 9A.36.140)
 - Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
 - Burglary 2 (RCW 9A.52.030)
 - Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
 - Criminal Gang Intimidation (RCW 9A.46.120)
 - Custodial Assault (RCW 9A.36.100)
 - Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
 - Escape 2 (RCW 9A.76.120)
 - Extortion 2 (RCW 9A.56.130)
 - Harassment (RCW 9A.46.020)
 - Intimidating a Public Servant (RCW 9A.76.180)
 - Introducing Contraband 2 (RCW 9A.76.150)
 - Malicious Injury to Railroad Property (RCW 81.60.070)
 - Mortgage Fraud (RCW 19.144.080)
 - Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
 - Organized Retail Theft 1 (RCW 9A.56.350(2))
 - Perjury 2 (RCW 9A.72.030)
 - Possession of Incendiary Device (RCW 9.40.120)

- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9A.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Retail Theft with (~~Extenuating~~) Special Circumstances 1 (RCW 9A.56.360(2))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
- Theft of Livestock 2 (RCW 9A.56.083)
- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
- Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
- Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))

Computer Trespass 1 (RCW 9A.52.110)
Counterfeiting (RCW 9.16.035(3))
Engaging in Fish Dealing Activity
Unlicensed 1 (RCW 77.15.620(3))
Escape from Community Custody
(RCW 72.09.310)
Failure to Register as a Sex Offender
(second or subsequent offense)
(RCW 9A.44.132)
Health Care False Claims (RCW
48.80.030)
Identity Theft 2 (RCW 9.35.020(3))
Improperly Obtaining Financial
Information (RCW 9.35.010)
Malicious Mischief 1 (RCW
9A.48.070)
Organized Retail Theft 2 (RCW
9A.56.350(3))
Possession of Stolen Property 1 (RCW
9A.56.150)
Possession of a Stolen Vehicle (RCW
9A.56.068)
Retail Theft with (~~Extenuating~~)
Special Circumstances 2 (RCW
9A.56.360(3))
Theft 1 (RCW 9A.56.030)
Theft of a Motor Vehicle (RCW
9A.56.065)
Theft of Rental, Leased, or Lease-
purchased Property (valued at one
thousand five hundred dollars or
more) (RCW 9A.56.096(5)(a))
Theft with the Intent to Resell 2 (RCW
9A.56.340(3))
Trafficking in Insurance Claims (RCW
48.30A.015)
Unlawful factoring of a credit card or
payment card transaction (RCW
9A.56.290(4)(a))

Unlawful Participation of Non-Indians
in Indian Fishery (RCW
77.15.570(2))

Unlawful Practice of Law (RCW
2.48.180)

Unlicensed Practice of a Profession or
Business (RCW 18.130.190(7))

Unlawful Purchase or Use of a License
(RCW 77.15.650(3)(b))

Unlawful Trafficking in Fish, Shellfish,
or Wildlife 2 (RCW
77.15.260(3)(a))

Voyeurism (RCW 9A.44.115)

I Attempting to Elude a Pursuing Police
Vehicle (RCW 46.61.024)

False Verification for Welfare (RCW
74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a
Mental Health Advance Directive
(RCW 9A.60.060)

Malicious Mischief 2 (RCW
9A.48.080)

Mineral Trespass (RCW 78.44.330)

Possession of Stolen Property 2 (RCW
9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

Spotlighting Big Game 1 (RCW
77.15.450(3)(b))

Suspension of Department Privileges 1
(RCW 77.15.670(3)(b))

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

Theft 2 (RCW 9A.56.040)

Theft of Rental, Leased, or Lease-
purchased Property (valued at two
hundred fifty dollars or more but
less than one thousand five hundred
dollars) (RCW 9A.56.096(5)(b))

- Transaction of insurance business
beyond the scope of licensure
(RCW 48.17.063)
- Unlawful Fish and Shellfish Catch
Accounting (RCW
77.15.630(3)(b))
- Unlawful Issuance of Checks or Drafts
(RCW 9A.56.060)
- Unlawful Possession of Fictitious
Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of
Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment
Instruments (RCW 9A.56.320)
- Unlawful Possession of a Personal
Identification Device (RCW
9A.56.320)
- Unlawful Production of Payment
Instruments (RCW 9A.56.320)
- Unlawful Release of Deleterious Exotic
Wildlife (RCW 77.15.250(2)(b))
- Unlawful Trafficking in Food Stamps
(RCW 9.91.142)
- Unlawful Use of Food Stamps (RCW
9.91.144)
- Unlawful Use of Net to Take Fish 1
(RCW 77.15.580(3)(b))
- Unlawful Use of Prohibited Aquatic
Animal Species (RCW
77.15.253(3))
- Vehicle Prowl 1 (RCW 9A.52.095)
- Violating Commercial Fishing Area or
Time 1 (RCW 77.15.550(3)(b))

NEW SECTION. Sec. 3. This act takes effect January 1, 2014.

Passed by the Senate April 19, 2013.

Passed by the House April 9, 2013.

Approved by the Governor May 7, 2013.

Filed in Office of Secretary of State May 7, 2013.

AUTHENTICATION

I, K. Kyle Thiessen, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2013 session (63rd Legislature), chapters 1 through 153, 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 14th day of August, 2013.

A handwritten signature in black ink that reads "K. Kyle Thiessen" with a long horizontal flourish extending to the right.

K. KYLE THIESSEN
Code Reviser