

**SIXTIETH DAY**

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MORNING SESSION

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Senate Chamber, Olympia, Thursday, March 8, 2012

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brown, Hewitt and Holmquist Newbry.

The Sergeant at Arms Color Guard consisting of Pages Ryan Bishop and Victoria Morales, presented the Colors. Senator Shin offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES  
 GUBERNATORIAL APPOINTMENTS

March 6, 2012

SGA 9020 JAMES COOK, reappointed on November 30, 2009, for the term ending October 1, 2013, as Member of The Life Sciences Discovery Fund Authority Board of Trustees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry and Keiser.

Passed to Committee on Rules for second reading.

March 6, 2012

SGA 9043 TONY HEY, reappointed on November 30, 2009, for the term ending October 1, 2013, as Member of The Life Sciences Discovery Fund Authority Board of Trustees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry and Keiser.

Passed to Committee on Rules for second reading.

March 6, 2012

SGA 9243 MARILYN GLENN SAYAN, reappointed on November 21, 2011, for the term ending September 8, 2016, as Member of the Public Employment Relations Commission. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry and Keiser.

Passed to Committee on Rules for second reading.

March 6, 2012

SGA 9285 BRUCE MONTGOMERY, reappointed on January 24, 2012, for the term ending October 1, 2015, as Member of The Life Sciences Discovery Fund Authority Board of Trustees. Reported by Committee on Labor, Commerce & Consumer Protection

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry and Keiser.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Eide, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

March 7, 2012

MR. PRESIDENT:

The House has passed:  
 SUBSTITUTE SENATE BILL NO. 6581,  
 ENGROSSED SENATE BILL NO. 6608.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 7, 2012

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2264,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2373,  
 THIRD SUBSTITUTE HOUSE BILL NO. 2585.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SJM 8019 by Senators Fraser, Regala, Rolfes, Shin, Nelson, Conway, Carrell, Swecker, Eide, Pridemore, Chase, Honeyford, Harper and Ranker

Requesting the designation of a National Marine Heritage Area.

Referred to Committee on Government Operations, Tribal Relations & Elections.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

3E2SHB 2565 by House Committee on Ways & Means (originally sponsored by Representatives Kirby, Harris, Dammeier, Walsh, Orwall, Kelley, Moscoso and Zeiger)

AN ACT Relating to persons who operate a roll-your-own cigarette machine at retail establishments; amending RCW 82.24.010, 82.24.030, 82.24.035, 82.24.050, 82.24.060, 82.24.110, 82.24.120, 82.24.180, 82.24.295, 82.24.500, and 82.24.530; reenacting and amending RCW 82.24.130; prescribing penalties; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

#### MOTION

Senator Eide moved that all measures listed on the Introduction and First Reading report be referred to the committees as designated.

#### PARLIAMENTARY INQUIRY

Senator Padden: "On Second Substitute House Bill No. 2565 which appears to be not necessary to implement the budget passed by the senate, which also appears to have a problem with 1053: Would the proper time for that ruling or that inquiry point of order be now or be If the bill comes before us on second reading?"

#### REPLY BY THE PRESIDENT

President Owen: "The President believes the answer to your question is the appropriate time to raise the issue of the point of order is on second reading or third reading."

The President declared the question before the Senate to be the motion by Senator Eide that the measures listed on the Introduction and First Reading report be referred to the committees as designated.

The motion by Senator Eide carried by voice vote.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### MOTION

On motion of Senator Harper, Senator Brown was excused.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Kline moved that Gubernatorial Appointment No. 9044, Betsy Hollingsworth, as a member of the Indeterminate Sentence Review Board, be confirmed.

Senator Kline spoke in favor of the motion.

#### MOTION

On motion of Senator Ericksen, Senators Hewitt, Holmquist Newbry, Pflug and Zarelli were excused.

#### APPOINTMENT OF BETSY HOLLINGSWORTH

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9044, Betsy Hollingsworth as a member of the Indeterminate Sentence Review Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9044, Betsy Hollingsworth as a member of the Indeterminate Sentence Review Board and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Baumgartner, Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Brown, Hewitt and Holmquist Newbry

Gubernatorial Appointment No. 9044, Betsy Hollingsworth, having received the constitutional majority was declared confirmed as a member of the Indeterminate Sentence Review Board.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Schoesler moved that Gubernatorial Appointment No. 9255, Charles McFadden, as a member of the Board of Trustees Big Bend Community College District No. 18, be confirmed.

Senator Schoesler spoke in favor of the motion.

#### APPOINTMENT OF CHARLES MCFADDEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9255, Charles McFadden as a member of the Board of Trustees Big Bend Community College District No. 18.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9255, Charles McFadden as a member of the Board of Trustees Big Bend Community College District No. 18 and the appointment was confirmed by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Baumgartner

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Excused: Senators Brown and Hewitt

Gubernatorial Appointment No. 9255, Charles McFadden, having received the constitutional majority was declared confirmed as a member of the Board of Trustees Big Bend Community College District No. 18.

Senator Keiser moved that Gubernatorial Appointment No. 9029, Kim Ekker, as a member of the Board of Pharmacy, be confirmed.

Senators Keiser and Baumgartner spoke in favor of the motion.

Senators Parlette and Padden spoke against of the motion.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

On motion of Senator Harper, Senator Prentice was excused.

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9257, Ron Simms, Member, Board of Regents Washington State University.

MOTION

On motion of Senator Frockt, further consideration of Gubernatorial Appointment No. 9257 was deferred and the appointment held its place on the confirmation calendar.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Keiser moved that Gubernatorial Appointment No. 9041, Gary Harris, as a member of the Board of Pharmacy, be confirmed.

Senator Keiser spoke in favor of the motion.

APPOINTMENT OF GARY HARRIS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9041, Gary Harris as a member of the Board of Pharmacy.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9041, Gary Harris as a member of the Board of Pharmacy and the appointment was confirmed by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Chase, Conway, Eide, Fain, Fraser, Frockt, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rolfes, Shin, Tom and Zarelli

Voting nay: Senators Becker, Benton, Carrell, Delvin, Ericksen, Hargrove, Holmquist Newbry, Honeyford, King, Morton, Padden, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Swecker

Excused: Senators Brown and Hewitt

Gubernatorial Appointment No. 9041, Gary Harris, having received the constitutional majority was declared confirmed as a member of the Board of Pharmacy.

MOTION

On motion of Senator Delvin, Senator Benton was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

APPOINTMENT OF KIM EKKER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9029, Kim Ekker as a member of the Board of Pharmacy.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9029, Kim Ekker as a member of the Board of Pharmacy and the appointment was confirmed by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Brown, Chase, Conway, Eide, Fain, Fraser, Frockt, Harper, Hatfield, Haugen, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rolfes, Shin and Tom

Voting nay: Senators Becker, Carrell, Delvin, Ericksen, Hargrove, Hewitt, Holmquist Newbry, Honeyford, King, Morton, Padden, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senator Benton

Gubernatorial Appointment No. 9029, Kim Ekker, having received the constitutional majority was declared confirmed as a member of the Board of Pharmacy.

MOTION

On motion of Senator Harper, Senator Keiser was excused.

The President appointed the following members to the Joint Select Committee on Article IX Litigation as established in House Concurrent Resolution No. 4410: Senator Fain, Frockt, Litzow and Rolfes.

On motion of Senator Eide, the appointments were confirmed.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2799, by House Committee on Education (originally sponsored by Representatives Sullivan, Santos, Maxwell, Darneille, Hunt, Carlyle, Haigh, Pollet and Kenney)

Authorizing a five-year pilot project for up to six collaborative schools for innovation and success operated by school districts in partnership with colleges of education.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute House Bill No. 2799 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe, Litzow, Tom, Nelson, Rolfes, Roach and Chase spoke in favor of passage of the bill.

Senator Ericksen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2799.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2799 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 6; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Roach, Rolfes, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Ericksen, Holmquist Newbry, Morton, Padden, Regala and Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2799, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 6138,  
 SUBSTITUTE SENATE BILL NO. 6226,  
 SUBSTITUTE SENATE BILL NO. 6240,  
 ENGROSSED SENATE BILL NO. 6257,  
 SUBSTITUTE SENATE BILL NO. 6386,  
 SUBSTITUTE SENATE BILL NO. 6468,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6486,  
 SUBSTITUTE SENATE BILL NO. 6493,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6555,  
 SUBSTITUTE SENATE BILL NO. 6581,  
 ENGROSSED SENATE BILL NO. 6608,  
 SENATE JOINT RESOLUTION NO. 8223.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2483, by House Committee on Higher Education (originally sponsored by Representatives Seaquist, Haler, Zeiger and Kelley)

Creating the office of the student achievement council. Revised for 2nd Substitute: Regarding higher education coordination.

The measure was read the second time.

#### MOTION

Senator Becker moved that the following amendment by Senators Becker, Hill and Tom be adopted:

On page 3, line 33, after "composed of" strike "ten" and insert "nine"

On page 4, line 26, after "colleges;" insert "and"

On page 4, beginning on line 29, after "education" strike all material through "board" on line 34

Senators Becker and Tom spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Becker, Hill and Tom

on page 3, line 33 to Engrossed Second Substitute House Bill No. 2483.

The motion by Senator Becker carried and the amendment was adopted by voice vote.

#### MOTION

Senator Becker moved that the following amendment by Senators Becker, Hill and Tom be adopted:

On page 4, line 29, after "education" insert ". The representative appointed under this subsection (2)(c)(iii) shall excuse himself or herself from voting on matters relating primarily to institutions of higher education"

Senators Becker and Tom spoke in favor of adoption of the amendment.

#### MOTION

On motion of Senator Harper, Senator Frockt was excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Becker, Hill and Tom on page 4, line 29 to Engrossed Second Substitute House Bill No. 2483.

The motion by Senator Becker carried and the amendment was adopted by voice vote.

#### MOTION

Senator Tom moved that the following amendment by Senator Tom and others be adopted:

On page 13, line 15, after "submitted" insert "to the office of financial management"

On page 13, line 20, after "submitted" insert "to the office of financial management"

Beginning on page 13, line 32, strike all material through "council" on page 14, line 9 and insert "(The board shall review and evaluate the operating and capital budget requests from four-year institutions and the community and technical college system based on how the requests align with the board's budget priorities, the missions of the institutions, and the statewide strategic master plan for higher education under RCW 28B.76.200.

(4) The board shall submit recommendations on the proposed operating budget and priorities to the office of financial management by October 1st of each even-numbered year, and to the legislature by January 1st of each odd-numbered year.

(5)(a) The board's capital budget recommendations for the community and technical college system and the four-year institutions must be submitted to the office of financial management and to the legislature by November 15th of each even-numbered year.

(b)) (4)(a) The ((board)) office of financial management"

On page 14, at the beginning of line 21, strike all material through "council" and insert "(((~~e~~))) (b) The ((~~board~~)) office of financial management"

On page 14, at the beginning of line 25, strike "(d)" and insert "(((~~d~~))) (c)"

On page 14, at the beginning of line 36, strike "(6)" and insert "(((~~6~~))) (5)"

Correct any internal references accordingly.

Beginning on page 14, line 38, after "to" strike all material through "to" on page 15, line 3 and insert "(the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to)"

Senator Tom spoke in favor of adoption of the amendment.

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The President declared the question before the Senate to be the adoption of the amendment by Senator Tom and others on page 13, line 15 to Engrossed Second Substitute House Bill No. 2483.

The motion by Senator Tom carried and the amendment was adopted by voice vote.

## MOTION

On motion of Senator Tom, the rules were suspended, Engrossed Second Substitute House Bill No. 2483 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Tom, Becker and McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2483 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2483 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2483 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

ENGROSSED HOUSE BILL NO. 2620, by Representative Hunter

Addressing the management and investment of state funds and accounts.

The measure was read the second time.

## MOTION

On motion of Senator Murray, the rules were suspended, Engrossed House Bill No. 2620 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2620.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2620 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

ENGROSSED HOUSE BILL NO. 2620, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 2803, by Representative Cody

Concerning health care services for incarcerated offenders.

The measure was read the second time.

## MOTION

Senator Stevens moved that the following striking amendment by Senators Stevens and Hargrove be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 72.10.020 and 1995 1st sp.s. c 19 s 17 are each amended to read as follows:

(1) Upon entry into the correctional system, offenders shall receive an initial medical examination. The department shall prepare a health profile for each offender that includes at least the following information: (a) An identification of the offender's serious medical and dental needs; (b) an evaluation of the offender's capacity for work and recreation; and (c) a financial assessment of the offender's ability to pay for all or a portion of his or her health care services from personal resources or private insurance.

(2)(a) The department may develop and implement a plan for the delivery of health care services and personal hygiene items to offenders in the department's correctional facilities, at the discretion of the secretary, and in conformity with federal law.

(b) To discourage unwarranted use of health care services caused by unnecessary visits to health care providers, offenders shall participate in the costs of their health care services by paying an amount that is commensurate with their resources as determined by the department, or a nominal amount of no less than ((three)) four dollars per visit, as determined by the secretary. Under the authority granted in RCW 72.01.050(2), the secretary may authorize the superintendent to collect this amount directly from an offender's institution account. All copayments collected from offenders' institution accounts shall be ((deposited into the general fund)) a reduction in the expenditures for offender health care at the department.

(c) Offenders are required to make copayments for initial health care visits that are offender initiated and, by rule adopted by the department, may be charged a copayment for subsequent visits related to the medical condition which caused the initial visit. ((Offenders are not required to pay for emergency treatment or for visits initiated by health care staff or treatment of those conditions that constitute a serious health care need.))

(d) No offender may be refused any health care service because of indigence.

(e) At no time shall the withdrawal of funds for the payment of a medical service copayment result in reducing an offender's institution account to an amount less than the level of indigency as defined in chapter 72.09 RCW.

(3)((~~4~~)) The department shall report annually to the legislature the following information for the fiscal year preceding the report: ((~~4~~)) (a) The total number of health care visits made by offenders; ((~~4~~)) (b) the total number of copayments assessed; ((~~4~~)) (c) the total dollar amount of copayments collected; ((~~4~~)) (d) the total number of copayments not collected due to an offender's indigency; and ((~~4~~)) (e) the total number of copayments not assessed due to the serious or emergent nature of the health care treatment or because the health care visit was not offender initiated.

((b) The first report required under this section shall be submitted not later than October 1, 1996, and shall include, at a minimum, all available information collected through the second half of fiscal year 1996. This subsection (3)(b) shall expire December 1, 1996.))

(4)(a) The secretary shall adopt, by rule, a uniform policy relating to the distribution and replenishment of personal hygiene items for inmates incarcerated in all department institutions. The policy shall provide for the initial distribution of adequate personal hygiene items to inmates upon their arrival at an institution.

(b) The acquisition of replenishment personal hygiene items is the responsibility of inmates, except that indigent inmates shall not be denied adequate personal hygiene items based on their inability to pay for them.

(c) The policy shall provide that the replenishment personal hygiene items be distributed to inmates only in authorized quantities and at intervals that reflect prudent use and customary wear and consumption of the items.

(5) To the extent that federal law allows and federal financial participation is available, for the limited purpose of implementing this section, the department, or the department's designee, is authorized to act on behalf of an inmate for purposes of applying for medicaid eligibility.

(6) The following become a debt and are subject to RCW 72.09.450:

(a) All copayments under subsection (2) of this section that are not collected when the visit occurs; and

(b) All charges for replenishment personal hygiene items that are not collected when the item is distributed.

**Sec. 2.** RCW 72.10.030 and 1989 c 157 s 4 are each amended to read as follows:

(1) Notwithstanding any other provisions of law, the secretary may enter into contracts with health care practitioners, health care facilities, and other entities or agents as may be necessary to provide ((~~basic~~)) medical, behavioral health, and chemical dependency treatment care to inmates. The contracts shall not cause the termination of classified employees of the department rendering the services at the time the contract is executed.

(2) In contracting for services, the secretary is authorized to provide for indemnification of health care practitioners who cannot obtain professional liability insurance through reasonable effort, from liability on any action, claim, or proceeding instituted against them arising out of the good faith performance or failure of performance of services on behalf of the department. The contracts may provide that for the purposes of chapter 4.92 RCW only, those health care practitioners with whom the department has contracted shall be considered state employees.

(3) Providers of hospital services that are hospitals licensed under chapter 70.41 RCW shall contract with the department for inpatient, outpatient, and ancillary services if deemed appropriate by the department. Payments to hospitals shall conform to the following requirements:

(a) The department shall pay hospitals through the provider one

system operated by the Washington state health care authority;

(b) The department shall reimburse the hospitals using the reimbursement methodology in use by the state medicaid program; and

(c) The department shall only reimburse a provider of hospital services to a hospital patient at a rate no more than the amount payable under the medicaid reimbursement structure plus a percentage increase that is determined in the operating budget, regardless of whether the hospital is located within or outside of Washington.

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.41 RCW to read as follows:

As a condition of licensure, a hospital must contract with the department of corrections pursuant to RCW 72.10.030."

Senators Stevens and Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Stevens and Hargrove to House Bill No. 2803.

The motion by Senator Stevens carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 4 of the title, after "offenders;" strike the remainder of the title and insert "amending RCW 72.10.020 and 72.10.030; and adding a new section to chapter 70.41 RCW."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 2803 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2803 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2803 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 2; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridmore, Ranker, Regala, Roach, Rolfes, Schoesler, Shin, Stevens and Swecker

Voting nay: Senator Sheldon

Absent: Senators Tom and Zarelli

HOUSE BILL NO. 2803 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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ENGROSSED SENATE BILL NO. 5873, by Senators Prentice, Parlette, Hewitt, Murray, Harper, Holmquist Newbry, Chase, Zarelli, Hobbs, King, Fain, Honeyford, Tom, Kilmer and McAuliffe

Concerning the sales and use tax exemption for qualifying businesses of eligible server equipment.

The measure was read the second time.

MOTION

Senator Holmquist Newbry moved that the following striking amendment by Senators Holmquist Newbry and Prentice be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) It is the legislature's intent to encourage immediate investments in technology facilities that can provide an economic stimulus, sustain long-term jobs that provide living wages, and help build the digital infrastructure that can enable the state to be competitive for additional technology investment and jobs.

(2) There is currently an intense competition for data center construction and operation in many states including: Oregon, Arizona, North and South Carolina, North Dakota, Iowa, Virginia, Texas, and Illinois. Unprecedented incentives are available as a result of the desire of these states to attract investments that will serve as a catalyst for additional clusters of economic activity.

(3) Data center technology has advanced rapidly, with marked increases in energy efficiency. Large, commercial-grade data centers leverage the economies of scale to reduce energy consumption. Combining digitized processes with the economies of scale recognized at these data centers, today's enterprises can materially reduce the energy they consume and greatly improve their efficiency.

(4) The legislature finds that offering an exemption for server and related electrical equipment and installation will act as a stimulus to incent immediate investment. This investment will bring jobs, tax revenues, and economic growth to some of our state's rural areas.

**Sec. 2.** RCW 82.08.986 and 2010 1st sp.s. c 23 s 1601 are each amended to read as follows:

(1) An exemption from the tax imposed by RCW 82.08.020 is provided for sales to qualifying businesses and to qualifying tenants of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to charges made for labor and services rendered in respect to installing eligible server equipment. The exemption also applies to sales to qualifying businesses of eligible power infrastructure, including labor and services rendered in respect to constructing, installing, repairing, altering, or improving eligible power infrastructure.

(2)(a) In order to claim the exemption under this section, a qualifying business or a qualifying tenant must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the department, to determine that a business or tenant qualifies for the exemption under this section. The department must issue exemption certificates to qualifying businesses and qualifying tenants. The department may assign a unique identification number to each exemption certificate issued under this section.

(b) A qualifying business or a qualifying tenant claiming the exemption under this section must present the seller with an exemption certificate in a form and manner prescribed by the

department. The seller must retain a copy of the certificate for the seller's files.

(3)(a) Within six years of the date that the department issued an exemption certificate under this section to a qualifying business or a qualifying tenant with respect to an eligible computer data center, the qualifying business or qualifying tenant must establish that net employment at the eligible computer data center has increased by a minimum of:

(i) Thirty-five family wage employment positions; or

(ii) Three family wage employment positions for each twenty thousand square feet of space or less that is newly dedicated to housing working servers at the eligible computer data center. For qualifying ~~((businesses that lease space at an eligible computer data center))~~ tenants, the number of family wage employment positions that must be increased under this subsection (3)(a)(ii) is based only on the space occupied by the ~~((lessee))~~ qualifying tenant in the eligible computer data center.

(b) In calculating the net increase in family wage employment positions:

(i) The owner of an eligible computer data center, in addition to its own net increase in family wage employment positions, may include:

(A) The net increase in family wage employment positions employed by qualifying ~~((businesses leasing space within the eligible computer data center from the owner))~~ tenants; and

(B) The net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

(ii)(A) ~~((Lessees of the owner of an eligible computer data center))~~ Qualifying tenants, in addition to their own net increase in family wage employment positions, may include:

(I) A portion of the net increase in family wage employment positions employed by the owner; and

(II) A portion of the net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

(B) The portion of the net increase in family wage employment positions to be counted under this subsection (3)(b)(ii) by each ~~((lessee))~~ qualifying tenant must be in proportion to the amount of space in the eligible computer data center occupied by the ~~((lessee))~~ qualifying tenant compared to the total amount of space in the eligible computer data center occupied by all ~~((lessees that are qualifying businesses))~~ qualifying tenants.

(c)(i) For purposes of this subsection, family wage employment positions are new permanent employment positions requiring forty hours of weekly work, or their equivalent, on a full-time basis at the eligible computer data center and receiving a wage equivalent to or greater than one hundred fifty percent of the per capita personal income of the county in which the qualified project is located. An employment position may not be counted as a family wage employment position unless the employment position is entitled to health insurance coverage provided by the employer of the employment position. For purposes of this subsection (3)(c), "new permanent employment position" means an employment position that did not exist or that had not previously been filled as of the date that the department issued an exemption certificate to the owner or ~~((lessee))~~ qualifying tenant of an eligible computer data center, as the case may be.

(ii)(A) Family wage employment positions include positions filled by employees of the owner of the eligible computer data center and by employees of qualifying ~~((businesses leasing space from the owner of the eligible computer data center))~~ tenants.

(B) Family wage employment positions also include individuals performing work at an eligible computer data center as an independent contractor hired by the owner of the eligible computer data center or as an employee of an independent contractor hired by the owner of the eligible computer data center, if the work is

necessary for the operation of the computer data center, such as security and building maintenance, and provided that all of the requirements in (c)(i) of this subsection (3) are met.

(d) All previously exempted sales and use taxes are immediately due and payable for a qualifying business or qualifying tenant that does not meet the requirements of this subsection.

(4) A qualifying business or a qualifying tenant claiming an exemption under this section or RCW 82.12.986 must complete an annual report with the department as required under RCW 82.32.534.

(5)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (5). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person claims an exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this section until paid in full.

(6) For purposes of this section the following definitions apply unless the context clearly requires otherwise:

(a)(i) "Computer data center" means a facility comprised of one or more buildings, which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has the following characteristics: (A) Uninterruptible power supplies, generator backup power, or both; (B) sophisticated fire suppression and prevention systems; and (C) enhanced physical security, such as: Restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring passcodes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

(ii) For a computer data center comprised of multiple buildings, each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has all of the characteristics listed in (a)(i)(A) through (C) of this subsection (6).

(iii) A facility comprised of one building or more than one building must have a combined square footage of at least one hundred thousand square feet.

(b) "Electronic data storage and data management services" include, but are not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting web sites. The term also includes providing services such as e-mail, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services.

(c)(i) "Eligible computer data center" means a computer data center:

(A) Located in a rural county as defined in RCW 82.14.370;

(B) Having at least twenty thousand square feet dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers; and

(C) For which the commencement of construction occurs:

(I) After March 31, 2010, and before July 1, 2011; or

(II) After March 31, 2012, and before July 1, 2015.

(ii) For purposes of this section, "commencement of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for construction of the computer data center. The construction of a computer data center includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space. "Commencement of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of a computer data center.

~~((#))~~ (iii) With respect to facilities in existence on April 1, 2010, that are expanded, renovated, or otherwise improved after March 31, 2010, or facilities in existence on April 1, 2012, that are expanded, renovated, or otherwise improved after March 31, 2012, an eligible computer data center includes only the portion of the computer data center meeting the requirements in (c)(i)(B) of this subsection (6).

(d) "Eligible power infrastructure" means all fixtures and equipment owned by a qualifying business, or qualifying tenant and necessary for the transformation, distribution, or management of electricity that is required to operate eligible server equipment within an eligible computer data center. The term includes ~~((electrical—substations,))~~ generators~~(,);~~ wiring~~((—and));~~ cogeneration equipment; and associated fixtures and equipment, such as electrical switches, batteries, and distribution, testing, and monitoring equipment.

(e) "Eligible server equipment" means:

(i) For a qualifying business whose computer data center qualifies as an eligible computer data center under (c)(i)(C)(I) of this subsection (6), the original server equipment installed in an eligible computer data center on or after April 1, 2010, and replacement server equipment. For purposes of this subsection (6)(e)(i), "replacement server equipment" means server equipment that:

~~((#))~~ (A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

~~((#))~~ (B) Is installed and put into regular use before April 1, 2018.

(ii) For a qualifying business whose computer data center qualifies as an eligible computer data center under (c)(i)(C)(II) of this subsection (6), "eligible server equipment" means the original server equipment installed in an eligible computer data center on or after April 1, 2012, and replacement server equipment. For purposes of this subsection (6)(e)(ii), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

(B) Is installed and put into regular use before April 1, 2020.

(iii) For a qualifying tenant who leases space within an eligible computer data center, "eligible server equipment" means the original server equipment installed within the space it leases from an eligible computer data center on or after April 1, 2010, and replacement server equipment. For purposes of this subsection (6)(e)(iii), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

(B) Is installed and put into regular use before April 1, 2020.

(f) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner of an eligible computer data center ~~((or the lessee of at least twenty thousand square feet within an eligible computer data center dedicated to housing working servers, where the server space has not previously been dedicated to housing~~

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working servers)). The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(g) ("Server" means blade or rack-mount server computers used in a computer data center exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner or lessee of the computer data center, or both. "Server" does not include personal computers.

(h) "Server equipment" means the server chassis and all computer hardware contained within the server chassis. "Server equipment" also includes computer software necessary to operate the server. "Server equipment" does not include the racks upon which the server chassis is installed, and computer peripherals such as keyboards, monitors, printers, mice, and other devices that work outside of the computer.) "Qualifying tenant" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that leases space from a qualifying business within an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(h) "Server equipment" means the computer hardware located in an eligible computer data center and used exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner or lessee of the computer data center, or both. "Server equipment" also includes computer software necessary to operate the computer hardware. "Server equipment" does not include personal computers, the racks upon which the server equipment is installed, and computer peripherals such as keyboards, monitors, printers, and mice.

(7) This section expires April 1, ~~(2018)~~ 2020.

**Sec. 3.** RCW 82.08.986 and 2010 1st sp.s. c 23 s 1601 are each amended to read as follows:

(1) An exemption from the tax imposed by RCW 82.08.020 is provided for sales to qualifying businesses and to qualifying tenants of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to charges made for labor and services rendered in respect to installing eligible server equipment. The exemption also applies to sales to qualifying businesses of eligible power infrastructure, including labor and services rendered in respect to constructing, installing, repairing, altering, or improving eligible power infrastructure.

(2)(a) In order to claim the exemption under this section, a qualifying business or a qualifying tenant must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the department, to determine that a business or tenant qualifies for the exemption under this section. The department must issue exemption certificates to qualifying businesses and qualifying tenants. The department may assign a unique identification number to each exemption certificate issued under this section.

(b) A qualifying business or a qualifying tenant claiming the exemption under this section must present the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3)(a) Within six years of the date that the department issued an exemption certificate under this section to a qualifying business or a

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qualifying tenant with respect to an eligible computer data center, the qualifying business or qualifying tenant must establish that net employment at the eligible computer data center has increased by a minimum of:

(i) Thirty-five family wage employment positions; or

(ii) Three family wage employment positions for each twenty thousand square feet of space or less that is newly dedicated to housing working servers at the eligible computer data center. For qualifying ~~((businesses that lease space at an eligible computer data center))~~ tenants, the number of family wage employment positions that must be increased under this subsection (3)(a)(ii) is based only on the space occupied by the ~~((lessee))~~ qualifying tenant in the eligible computer data center.

(b) In calculating the net increase in family wage employment positions:

(i) The owner of an eligible computer data center, in addition to its own net increase in family wage employment positions, may include:

(A) The net increase in family wage employment positions employed by qualifying ~~((businesses leasing space within the eligible computer data center from the owner))~~ tenants; and

(B) The net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

~~((ii)(A) ((Lessees of the owner of an eligible computer data center))~~ Qualifying tenants, in addition to their own net increase in family wage employment positions, may include:

(I) A portion of the net increase in family wage employment positions employed by the owner; and

(II) A portion of the net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

(B) The portion of the net increase in family wage employment positions to be counted under this subsection (3)(b)(ii) by each ~~((lessee))~~ qualifying tenant must be in proportion to the amount of space in the eligible computer data center occupied by the ~~((lessee))~~ qualifying tenant compared to the total amount of space in the eligible computer data center occupied by all ~~((lessees that are qualifying businesses))~~ qualifying tenants.

(c)(i) For purposes of this subsection, family wage employment positions are new permanent employment positions requiring forty hours of weekly work, or their equivalent, on a full-time basis at the eligible computer data center and receiving a wage equivalent to or greater than one hundred fifty percent of the per capita personal income of the county in which the qualified project is located. An employment position may not be counted as a family wage employment position unless the employment position is entitled to health insurance coverage provided by the employer of the employment position. For purposes of this subsection (3)(c), "new permanent employment position" means an employment position that did not exist or that had not previously been filled as of the date that the department issued an exemption certificate to the owner or ~~((lessee))~~ qualifying tenant of an eligible computer data center, as the case may be.

(ii)(A) Family wage employment positions include positions filled by employees of the owner of the eligible computer data center and by employees of qualifying ~~((businesses leasing space from the owner of the eligible computer data center))~~ tenants.

(B) Family wage employment positions also include individuals performing work at an eligible computer data center as an independent contractor hired by the owner of the eligible computer data center or as an employee of an independent contractor hired by the owner of the eligible computer data center, if the work is necessary for the operation of the computer data center, such as security and building maintenance, and provided that all of the requirements in (c)(i) of this subsection (3) are met.

(d) All previously exempted sales and use taxes are immediately due and payable for a qualifying business or qualifying tenant that does not meet the requirements of this subsection.

(4) A qualifying business or a qualifying tenant claiming an exemption under this section or RCW 82.12.986 must complete an annual ~~(report)~~ survey with the department as required under RCW ~~((82.32.534))~~ 82.32.585.

(5)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (5). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person claims an exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this section until paid in full.

(6) For purposes of this section the following definitions apply unless the context clearly requires otherwise:

(a)(i) "Computer data center" means a facility comprised of one or more buildings, which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has the following characteristics: (A) Uninterruptible power supplies, generator backup power, or both; (B) sophisticated fire suppression and prevention systems; and (C) enhanced physical security, such as: Restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring passcodes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

(ii) For a computer data center comprised of multiple buildings, each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has all of the characteristics listed in (a)(i)(A) through (C) of this subsection (6).

(iii) A facility comprised of one building or more than one building must have a combined square footage of at least one hundred thousand square feet.

(b) "Electronic data storage and data management services" include, but are not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting web sites. The term also includes providing services such as e-mail, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services.

(c)(i) "Eligible computer data center" means a computer data center:

(A) Located in a rural county as defined in RCW 82.14.370;

(B) Having at least twenty thousand square feet dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers; and

(C) For which the commencement of construction occurs;

(I) After March 31, 2010, and before July 1, 2011; or

(II) After March 31, 2012, and before July 1, 2015.

(ii) For purposes of this section, "commencement of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for construction of the computer data center. The construction of a computer data center

includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space. "Commencement of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of a computer data center.

~~((#))~~ (iii) With respect to facilities in existence on April 1, 2010, that are expanded, renovated, or otherwise improved after March 31, 2010, or facilities in existence on April 1, 2012, that are expanded, renovated, or otherwise improved after March 31, 2012, an eligible computer data center includes only the portion of the computer data center meeting the requirements in (c)(i)(B) of this subsection (6).

(d) "Eligible power infrastructure" means all fixtures and equipment owned by a qualifying business, or qualifying tenant and necessary for the transformation, distribution, or management of electricity that is required to operate eligible server equipment within an eligible computer data center. The term includes ~~((electrical—substations,))~~ generators((,)); wiring((—and)); cogeneration equipment; and associated fixtures and equipment, such as electrical switches, batteries, and distribution, testing, and monitoring equipment.

(e) "Eligible server equipment" means:

(i) For a qualifying business whose computer data center qualifies as an eligible computer data center under (c)(i)(C)(I) of this subsection (6), the original server equipment installed in an eligible computer data center on or after April 1, 2010, and replacement server equipment. For purposes of this subsection (6)(e)(i), "replacement server equipment" means server equipment that:

~~((#))~~ (A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

~~((#))~~ (B) Is installed and put into regular use before April 1, 2018.

(ii) For a qualifying business whose computer data center qualifies as an eligible computer data center under (c)(i)(C)(II) of this subsection (6), "eligible server equipment" means the original server equipment installed in an eligible computer data center on or after April 1, 2012, and replacement server equipment. For purposes of this subsection (6)(e)(ii), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

(B) Is installed and put into regular use before April 1, 2020.

(iii) For a qualifying tenant who leases space within an eligible computer data center, "eligible server equipment" means the original server equipment installed within the space it leases from an eligible computer data center on or after April 1, 2010, and replacement server equipment. For purposes of this subsection (6)(e)(iii), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

(B) Is installed and put into regular use before April 1, 2020.

(f) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner of an eligible computer data center ~~((or the lessee of at least twenty thousand square feet within an eligible computer data center dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers)).~~ The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by

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the state or federal government, tribal government, municipality, or political subdivision of the state.

(g) ("Server" means blade or rack-mount server computers used in a computer data center exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner or lessee of the computer data center, or both. "Server" does not include personal computers.

(h) "Server equipment" means the server chassis and all computer hardware contained within the server chassis. "Server equipment" also includes computer software necessary to operate the server. "Server equipment" does not include the racks upon which the server chassis is installed, and computer peripherals such as keyboards, monitors, printers, mice, and other devices that work outside of the computer.) "Qualifying tenant" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that leases space from a qualifying business within an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(h) "Server equipment" means the computer hardware located in an eligible computer data center and used exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner or lessee of the computer data center, or both. "Server equipment" also includes computer software necessary to operate the computer hardware. "Server equipment" does not include personal computers, the racks upon which the server equipment is installed, and computer peripherals such as keyboards, monitors, printers, and mice.

(7) This section expires April 1, ~~((2018))~~ 2020.

**Sec. 4.** RCW 82.12.986 and 2010 1st sp.s. c 23 s 1602 are each amended to read as follows:

(1) An exemption from the tax imposed by RCW 82.12.020 is provided for the use by qualifying businesses or qualifying tenants of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to the use of labor and services rendered in respect to installing such server equipment. The exemption also applies to the use ~~((of))~~ by a qualifying business of eligible power infrastructure, including labor and services rendered in respect to installing, repairing, altering, or improving such infrastructure.

(2) A qualifying business or a qualifying tenant is not eligible for the exemption under this section unless the department issued an exemption certificate to the qualifying business or a qualifying tenant for the exemption provided in RCW 82.08.986.

(3)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (3). For purposes of this subsection, "affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) If a person has received the benefit of the exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted

under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this subsection (3)(b) until paid in full. A person is not required to repay taxes under this subsection with respect to property and services for which the person is required to repay taxes under RCW 82.08.986(5).

(4) The definitions and requirements in RCW 82.08.986 apply to this section.

(5) This section expires April 1, ~~((2018))~~ 2020.

**NEW SECTION. Sec. 5.** (1) Except as provided in subsection (3) of this section, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 1, 2012.

(2) Section 2 of this act does not take effect if the contingency in subsection (3) of this section occurs.

(3) Section 3 of this act takes effect if Substitute House Bill No. 2530 or any other legislation repealing RCW 82.32.534 is enacted during the 2012 legislative session and signed into law."

Senators Holmquist Newbry and Prentice spoke in favor of adoption of the striking amendment.

MOTION

On motion of Senator Harper, Senator Tom was excused.

MOTION

On motion of Senator Ericksen, Senator Zarelli was excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Holmquist Newbry and Prentice to Engrossed Senate Bill No. 5873.

The motion by Senator Holmquist Newbry carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "amending the sales and use tax exemption for certain equipment used in computer data centers; amending RCW 82.08.986, 82.08.986, and 82.12.986; creating a new section; providing an effective date; providing a contingent effective date; providing expiration dates; and declaring an emergency."

MOTION

On motion of Senator Prentice, the rules were suspended, Second Engrossed Senate Bill No. 5873 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice, Holmquist Newbry, Parlette and Conway spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Engrossed Senate Bill No. 5873.

ROLL CALL

The Secretary called the roll on the final passage of Second Engrossed Senate Bill No. 5873 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser,

Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Frockt

SECOND ENGROSSED SENATE BILL NO. 5873, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 5, 2012

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 1398 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hobbs moved that the Senate recede from its position in the Senate amendment(s) to Engrossed House Bill No. 1398.

The President declared the question before the Senate to be motion by Senator Hobbs that the Senate recede from its position in the Senate amendment(s) to Engrossed House Bill No. 1398.

The motion by Senator Hobbs carried and the Senate receded from its position in the Senate amendment(s) to Engrossed House Bill No. 1398 by voice vote.

#### MOTION

On motion of Senator Hobbs, the rules were suspended and Engrossed House Bill No. 1398 was returned to second reading for the purposes of amendment.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1398, by Representatives Fitzgibbon, Seaquist, Orwall, Springer, Upthegrove and Kenney

Creating an exemption from impact fees for low-income housing.

The measure was read the second time.

#### MOTION

Senator Hobbs moved that the following striking amendment by Senator Hobbs and others be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.02.060 and 1990 1st ex.s. c 17 s 44 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) May provide an exemption from impact fees for low-income housing. Local governments that grant exemptions for low-income housing under this subsection (3) may either: Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts. An exemption for low-income housing granted under subsection (2) of this section or this subsection (3) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion. Covenants required by this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under subsection (2) of this section or this subsection (3) for low-income housing may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under subsection (2) of this section or this subsection (3);

(4) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

~~((4))~~ (5) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

~~((5))~~ (6) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

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~~((6))~~ (7) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development; and

~~((7))~~ (8) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies.

For purposes of this section, "low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development."

Senator Hobbs spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Hobbs and others to Engrossed House Bill No. 1398.

The motion by Senator Hobbs carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "fees;" strike the remainder of the title and insert "and amending RCW 82.02.060."

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed House Bill No. 1398 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1398 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1398 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Pflug, Prentice, Pridemore, Ranker, Regala, Rolfes, Shin and Tom

Voting nay: Senators Baumgartner, Becker, Benton, Delvin, Ericksen, Holmquist Newbry, Honeyford, King, Morton, Padden, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

ENGROSSED HOUSE BILL NO. 1398 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 5, 2012

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2536 and asks the Senate to recede therefrom. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 2536.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 2536.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 2536 by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended and Engrossed Second Substitute House Bill No. 2536 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2536, by House Committee on Ways & Means (originally sponsored by Representatives Dickerson, Johnson, Goodman, Hinkle, Kretz, Pettigrew, Warnick, Cody, Harris, Kenney, Kagi, Darneille, Orwall, Condotta, Ladenburg, Appleton, Jinkins and Maxwell)

Concerning the use of evidence-based practices for the delivery of services to children and juveniles.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove, Stevens and Carrell be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature intends that prevention and intervention services delivered to children and juveniles in the areas of mental health, child welfare, and juvenile justice be primarily evidence-based and research-based, and it is anticipated that such services will be provided in a manner that is culturally competent.

(2) The legislature also acknowledges that baseline information is not presently available regarding the extent to which evidence-based and research-based practices are presently available and in use in the areas of children's mental health, child welfare, and juvenile justice; the cost of those practices; and the most effective strategies and appropriate time frames for expecting their broader use. Thus, it would be wise to establish baseline data regarding the use and availability of evidence-based and research-based practices.

(3) It is the intent of the legislature that increased use of evidence-based and research-based practices be accomplished to the extent possible within existing resources by coordinating the

purchase of evidence-based services, the development of a trained workforce, and the development of unified and coordinated case plans to provide treatment in a coordinated and consistent manner.

(4) The legislature recognizes that in order to effectively provide evidence-based and research-based practices, contractors should have a workforce trained in these programs, and outcomes from the use of these practices should be monitored.

**NEW SECTION. Sec. 2.** For the purposes of this chapter:

(1) "Contractors" does not include county probation staff that provide evidence-based or research-based programs.

(2) "Prevention and intervention services" means services and programs for children and youth and their families that are specifically directed to address behaviors that have resulted or may result in truancy, abuse or neglect, out-of-home placements, chemical dependency, substance abuse, sexual aggressiveness, or mental or emotional disorders.

**NEW SECTION. Sec. 3.** The department of social and health services shall accomplish the following in consultation and collaboration with the Washington state institute for public policy, the evidence-based practice institute at the University of Washington, a university-based child welfare partnership and research entity, other national experts in the delivery of evidence-based services, and organizations representing Washington practitioners:

(1) By September 30, 2012, the Washington state institute for public policy, the University of Washington evidence-based practice institute, in consultation with the department shall publish descriptive definitions of evidence-based, research-based, and promising practices in the areas of child welfare, juvenile rehabilitation, and children's mental health services.

(a) In addition to descriptive definitions, the Washington state institute for public policy and the University of Washington evidence-based practice institute must prepare an inventory of evidence-based, research-based, and promising practices for prevention and intervention services that will be used for the purpose of completing the baseline assessment described in subsection (2) of this section. The inventory shall be periodically updated as more practices are identified.

(b) In identifying evidence-based and research-based services, the Washington state institute for public policy and the University of Washington evidence-based practice institute must:

(i) Consider any available systemic evidence-based assessment of a program's efficacy and cost-effectiveness; and

(ii) Attempt to identify assessments that use valid and reliable evidence.

(c) Using state, federal, or private funds, the department shall prioritize the assessment of promising practices identified in (a) of this subsection with the goal of increasing the number of such practices that meet the standards for evidence-based and research-based practices.

(2) By June 30, 2013, the department and the health care authority shall complete a baseline assessment of utilization of evidence-based and research-based practices in the areas of child welfare, juvenile rehabilitation, and children's mental health services. The assessment must include prevention and intervention services provided through medicaid fee-for-service and healthy options managed care contracts. The assessment shall include estimates of:

(a) The number of children receiving each service;

(b) For juvenile rehabilitation and child welfare services, the total amount of state and federal funds expended on the service;

(c) For children's mental health services, the number and percentage of encounters using these services that are provided to children served by regional support networks and children receiving mental health services through medicaid fee-for-service or healthy options;

(d) The relative availability of the service in the various regions of the state; and

(e) To the extent possible, the unmet need for each service.

(3)(a) By December 30, 2013, the department and the health care authority shall report to the governor and to the appropriate fiscal and policy committees of the legislature on recommended strategies, timelines, and costs for increasing the use of evidence-based and research-based practices. The report must distinguish between a reallocation of existing funding to support the recommended strategies and new funding needed to increase the use of the practices.

(b) The department shall provide updated recommendations to the governor and the legislature by December 30, 2014, and by December 30, 2015.

(4)(a) The report required under subsection (3) of this section must include recommendations for the reallocation of resources for evidence-based and research-based practices and substantial increases above the baseline assessment of the use of evidence-based and research-based practices for the 2015-2017 and the 2017-2019 biennia. The recommendations for increases shall be consistent with subsection (2) of this section.

(b) If the department or health care authority anticipates that it will not meet its recommended levels for an upcoming biennium as set forth in its report, it must report to the legislature by November 1st of the year preceding the biennium. The report shall include:

(i) The identified impediments to meeting the recommended levels;

(ii) The current and anticipated performance level; and

(iii) Strategies that will be undertaken to improve performance.

(5) Recommendations made pursuant to subsections (3) and (4) of this section must include strategies to identify programs that are effective with ethnically diverse clients and to consult with tribal governments, experts within ethnically diverse communities, and community organizations that serve diverse communities.

**NEW SECTION. Sec. 4.** The department of social and health services, in consultation with a university-based evidence-based practice institute in Washington, the Washington partnership council on juvenile justice, the child mental health systems of care planning committee, the children, youth, and family advisory committee, the Washington state racial disproportionality advisory committee, a university-based child welfare research entity in Washington state, regional support networks, the Washington association of juvenile court administrators, and the Washington state institute for public policy, shall:

(1) Develop strategies to use unified and coordinated case plans for children, youth, and their families who are or are likely to be involved in multiple systems within the department;

(2) Use monitoring and quality control procedures designed to measure fidelity with evidence-based and research-based prevention and treatment programs; and

(3) Utilize any existing data reporting and system of quality management processes at the state and local level for monitoring the quality control and fidelity of the implementation of evidence-based and research-based practices.

**NEW SECTION. Sec. 5.** (1) The department of social and health services and the health care authority shall identify components of evidence-based practices for which federal matching funds might be claimed and seek such matching funds to support implementation of evidence-based practices.

(2) The department shall efficiently use funds to coordinate training in evidence-based and research-based practices across the programs areas of juvenile justice, children's mental health, and child welfare.

(3) Any child welfare training related to implementation of this chapter must be delivered by the University of Washington school

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of social work in coordination with the University of Washington evidence-based practices institute.

(4) Nothing in this act requires the department or the health care authority to:

(a) Take actions that are in conflict with presidential executive order 13175 or that adversely impact tribal-state consultation protocols or contractual relations; or

(b) Redirect funds in a manner that:

(i) Conflicts with the requirements of the department's section 1915(b) medicaid mental health waiver; or

(ii) Would substantially reduce federal medicaid funding for mental health services or impair access to appropriate and effective services for a substantial number of medicaid clients; or

(c) Undertake actions that, in the context of a lawsuit against the state, are inconsistent with the department's obligations or authority pursuant to a court order or agreement.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 43 RCW."

Senator Hargrove spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove, Stevens and Carrell to Engrossed Second Substitute House Bill No. 2536.

The motion by Senator Hargrove carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "juveniles;" strike the remainder of the title and insert "and adding a new chapter to Title 43 RCW."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute House Bill No. 2536 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

On motion of Senator Harper, Senator Frockt was excused.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2536 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2536 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Frockt

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2536 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2012

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SUBSTITUTE SENATE BILL NO. 6494 and again asks the Senate to concur thereon and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate insist on its position in the House amendment(s) to Substitute Senate Bill No. 6494 and again ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate insist on its position in the House amendment(s) to Substitute Senate Bill No. 6494 and again ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate insisted on its position in the House amendment(s) to Substitute Senate Bill No. 6494 and again asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 7, 2012

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6135. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6135-S AMH BLAK H4667.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 7.84.030 and 2011 c 320 s 14 are each amended to read as follows:

(1) An infraction proceeding is initiated by the issuance and service of a printed notice of infraction and filing of a printed or electronic copy of the notice of infraction.

(2)(a) A notice of infraction may be issued by a person authorized to enforce the provisions of the title or chapter in which the infraction is established, or by a person authorized by an interlocal agreement entered into under RCW 7.84.140, when the infraction occurs in that person's presence.

(b) A person who is a peace officer as defined in chapter 10.93 RCW may detain the person receiving the infraction for a reasonable period of time necessary to identify the person, check for outstanding warrants, and complete and issue a notice of infraction under RCW 7.84.050. A person who is to receive a notice of infraction is required to identify himself or herself to the peace officer by giving the person's name, address, and date of birth. Upon request, the person shall produce reasonable identification, which may include a driver's license or identocard. Any person who fails to comply with the requirement to identify himself or herself and give the person's current address may be found to have committed an infraction.

(3) A court may issue a notice of infraction if a person authorized to enforce the provisions of the title or chapter in which the infraction is established, or by a person authorized by an interlocal agreement entered into under RCW 7.84.140, files with the court a written statement that the infraction was committed in that person's presence or that the officer has reason to believe an infraction was committed.

(4) Service of a notice of infraction issued under subsection (2) or (3) of this section shall be as provided by court rule.

(5) A notice of infraction shall be filed with a court having jurisdiction within five days of issuance, excluding Saturdays, Sundays, and holidays.

**Sec. 2.** RCW 7.84.020 and 2003 c 39 s 3 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definition in this section applies throughout this chapter unless the context clearly requires otherwise.

"Infraction" means an offense which, by the terms of Title 76, 77, 79, or 79A RCW or ~~((chapter 43.30 RCW))~~ RCW 7.84.030(2)(b) and rules adopted under these titles and ~~((chapters))~~ section, is declared not to be a criminal offense and is subject to the provisions of this chapter.

**Sec. 3.** RCW 9.94A.515 and 2010 c 289 s 11 and 2010 c 227 s 9 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)

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)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
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)

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- 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 9A.35.020(2))	Custodial Assault (RCW 9A.36.100)
Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)	Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
Influencing Outcome of Sporting Event (RCW 9A.82.070)	Escape 2 (RCW 9A.76.120)
Malicious Harassment (RCW 9A.36.080)	Extortion 2 (RCW 9A.56.130)
Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68( <del>(A)</del> ))	Harassment (RCW 9A.46.020)
<del>9A.070(2))</del>	Intimidating a Public Servant (RCW 9A.76.180)
Residential Burglary (RCW 9A.52.025)	Introducing Contraband 2 (RCW 9A.76.150)
Robbery 2 (RCW 9A.56.210)	Malicious Injury to Railroad Property (RCW 81.60.070)
Theft of Livestock 1 (RCW 9A.56.080)	Mortgage Fraud (RCW 19.144.080)
Threats to Bomb (RCW 9.61.160)	Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
Trafficking in Stolen Property 1 (RCW 9A.82.050)	Organized Retail Theft 1 (RCW 9A.56.350(2))
Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))	Perjury 2 (RCW 9A.72.030)
Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))	Possession of Incendiary Device (RCW 9.40.120)
Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))	Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
Unlawful transaction of insurance business (RCW 48.15.023(3))	Promoting Prostitution 2 (RCW 9A.88.080)
Unlicensed practice as an insurance professional (RCW 48.17.063(2))	Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))
Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))	Securities Act violation (RCW 21.20.400)
Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)	Tampering with a Witness (RCW 9A.72.120)
Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))	Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
Willful Failure to Return from Furlough (RCW 72.66.060)	Theft of Livestock 2 (RCW 9A.56.083)
III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))	Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))	Trafficking in Stolen Property 2 (RCW 9A.82.055)
Assault of a Child 3 (RCW 9A.36.140)	<u>Unlawful Hunting of Big Game 1</u> <u>(RCW 77.15.410(3)(b))</u>
Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))	Unlawful Imprisonment (RCW 9A.40.040)
Burglary 2 (RCW 9A.52.030)	Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)	<u>Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))</u>
Criminal Gang Intimidation (RCW 9A.46.120)	<u>Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))</u>
	<u>Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))</u>
	Vehicular Assault, by the operation or driving of a vehicle with disregard

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- for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Commercial Fishing Without a License
  - 1 (RCW 77.15.500(3)(b))
  - Computer Trespass 1 (RCW 9A.52.110)
  - Counterfeiting (RCW 9.16.035(3))
  - Engaging in Fish Dealing Activity
    - Unlicensed 1 (RCW 77.15.620(3))
  - Escape from Community Custody (RCW 72.09.310)
  - Failure to Register as a Sex Offender (second or subsequent offense) ((~~RCW 9A.44.130(1)(a))~~) (RCW 9A.44.132(1)(b))
  - 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 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))

**Sec. 4.** RCW 77.08.010 and 2011 c 324 s 3 are each reenacted and amended to read as follows:

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

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

(2) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections (3), (28), (40), (44), (60), and (61) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(3) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

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

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

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

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

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

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

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

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

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

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

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

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

(16) "Ex officio fish and wildlife officer" means ((a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions));

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

(b) An officer or special agent commissioned by one of the following: The national marine fisheries service; the Washington state parks and recreation commission; the United States fish and

wildlife service; the Washington state department of natural resources; the United States forest service; or the United States parks service, if the agent or officer is in the respective jurisdiction of the primary commissioning agency and is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency;

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

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

(17) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

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

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

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

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

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

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

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

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

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

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

(28) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

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

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

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

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

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

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

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

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

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

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

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

(40) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

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

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

(43) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.

(44) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

(45) "Resident" ((means:

(a) A person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state; and

(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection)) has the same meaning as defined in section 5 of this act.

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

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

(48) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not

limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

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

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

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

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

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

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

(54) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

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

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

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

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

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

(60) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

(61) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

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

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

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

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

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

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

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

(69) "Fish buyer" means a person engaged by a wholesale fish dealer to purchase food fish or shellfish from a licensed commercial fisher.

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

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

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

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

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

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

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

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

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

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

**NEW SECTION. Sec. 5.** A new section is added to chapter 77.08 RCW to read as follows:

For the purposes of this title or rules adopted under this title, "resident" means:

(1) A natural person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, is not licensed to hunt or fish as a resident in another state or country, and is not receiving resident benefits of another state or country.

(a) For purposes of this section, "permanent place of abode" means a residence in this state that a person maintains for personal use.

(b) A natural person can demonstrate that the person has maintained a permanent place of abode in Washington by showing that the person:

(i) Uses a Washington state address for federal income tax or state tax purposes;

(ii) Designates this state as the person's residence for obtaining eligibility to hold a public office or for judicial actions;

(iii) Is a registered voter in the state of Washington; or

(iv) Is a custodial parent with a child attending prekindergarten, kindergarten, elementary school, middle school, or high school in this state.

(c) A natural person can demonstrate the intent to continue residing within the state by showing that he or she:

(i) Has a valid Washington state driver's license; or

(ii) Has a valid Washington state identification card, if the person is not eligible for a Washington state driver's license; and

(iii) Has registered the person's vehicle or vehicles in Washington state.

(2) The spouse of a member of the United States armed forces if the member qualifies as a resident under subsection (1), (3), or (4) of this section, or a natural person age eighteen or younger who does not qualify as a resident under subsection (1) of this section, but who has a parent or legal guardian who qualifies as a resident under subsection (1), (3), or (4) of this section.

(3) A member of the United States armed forces temporarily stationed in Washington state on predeployment orders. A copy of the person's military orders is required to meet this condition.

(4) A member of the United States armed forces who is permanently stationed in Washington state or who designates Washington state on their military "state of legal residence certificate" or enlistment or re-enlistment documents. A copy of the person's "state of legal residence certificate" or enlistment or re-enlistment documents is required to meet the conditions of this subsection.

**Sec. 6.** RCW 77.15.030 and 1999 c 258 s 1 are each amended to read as follows:

Except as provided in RCW 77.15.260(2)(b), where it is unlawful to hunt, take, fish, possess, or traffic in big game or protected or endangered fish or wildlife, then each individual animal unlawfully taken or possessed is a separate offense.

**Sec. 7.** RCW 77.15.050 and 2009 c 333 s 1 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, as used in this chapter, "conviction" means(=

~~(a)) a final conviction in a state or municipal court(=~~

~~(b) A failure to appear at a hearing to contest an infraction or criminal citation; or~~

~~(c) An unvacated forfeiture of bail paid as a final disposition for an offense).~~

(2) A plea of guilty(=) or a finding of guilt for a violation of this title or department rule (~~(of the commission or director)~~) constitutes a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

**Sec. 8.** RCW 77.15.075 and 2009 c 204 s 1 are each amended to read as follows:

(1) Fish and wildlife officers ((and ex officio fish and wildlife officers shall enforce this title, rules of the department, and other statutes as prescribed by the legislature. Fish and wildlife officers who are not ex officio officers)) shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally. Fish and wildlife officers are general authority Washington peace officers.

(2) An applicant for a fish and wildlife officer position must be a citizen of the United States of America who can read and write the English language. ((All fish and wildlife officers employed after June 13, 2002, must successfully complete the basic law enforcement academy course, known as the basic course, sponsored by the criminal justice training commission, or the basic law enforcement equivalency certification, known as the equivalency course, provided by the criminal justice training commission. All officers employed on June 13, 2002, must have successfully

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completed the basic course, the equivalency course, or the supplemental course in criminal law enforcement, known as the supplemental course, offered under chapter 155, Laws of 1985. Any officer who has not successfully completed the basic course, the equivalency course, or the supplemental course must complete the basic course or the equivalency course within fifteen months of June 13, 2002.

(2) Fish and wildlife officers are peace officers)) Before a person may be appointed to act as a fish and wildlife officer, the person shall meet the minimum standards for employment with the department, including successful completion of a psychological examination and polygraph examination or similar assessment procedure administered in accordance with the requirements of RCW 43.101.095(2).

(3) Any liability or claim of liability under chapter 4.92 RCW that arises out of the exercise or alleged exercise of authority by a fish and wildlife officer rests with the department unless the fish and wildlife officer acts under the direction and control of another agency or unless the liability is otherwise assumed under an agreement between the department and another agency.

(4) ~~(Fish and wildlife officers may serve and execute warrants and processes issued by the courts.~~

(5)) The department may utilize the services of a volunteer chaplain as provided under chapter 41.22 RCW.

**Sec. 9.** RCW 77.15.080 and 2002 c 281 s 8 are each amended to read as follows:

(1) Based upon articulable facts that a person is engaged in fishing, harvesting, or hunting activities, fish and wildlife officers and ex officio fish and wildlife officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish, shellfish, seaweed, and wildlife in possession as well as the equipment being used to ensure compliance with the requirements of this title~~((and)).~~ Fish and wildlife officers and ex officio fish and wildlife officers also may request that the person ~~((to))~~ write his or her signature for comparison with the signature on ~~((the))~~ his or her fishing, harvesting, or hunting license. Failure to comply with the request is prima facie evidence that the person is not the person named on the license. ~~((For licenses purchased over the internet or telephone,))~~ Fish and wildlife officers may require the person, if age ~~((eighteen))~~ sixteen or older, to exhibit a driver's license or other photo identification.

(2) Based upon articulable facts that a person is transporting a prohibited aquatic animal species or any aquatic plant, fish and wildlife officers and ex officio fish and wildlife officers have the authority to temporarily stop the person and inspect the watercraft to ensure that the watercraft and associated equipment are not transporting prohibited aquatic animal species or aquatic plants.

**Sec. 10.** RCW 77.15.100 and 2009 c 333 s 39 are each amended to read as follows:

(1) ~~((Unless otherwise provided in this title,))~~ Fish, shellfish, ((or wildlife unlawfully taken or possessed, or involved in a violation shall be forfeited to the state upon conviction. Unless already held by, sold, destroyed, or disposed of by the department, the court shall order such fish or wildlife to be delivered to the department. Where delay will cause loss to the value of the property and a ready wholesale buying market exists, the department may sell property to a wholesale buyer at a fair market value.

(2) When seized property is forfeited to the department, the department may retain it for official use unless the property is required to be destroyed, or upon application by any law enforcement agency of the state, release the property to the agency for the use of enforcing this title, or sell such property and deposit the proceeds into the fish and wildlife enforcement reward account established under RCW 77.15.425. Any sale of other property

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shall be at public auction or after public advertisement reasonably designed to obtain the highest price. The time, place, and manner of holding the sale shall be determined by the director. The director may contract for the sale to be through the department of general administration as state surplus property, or, except where not justifiable by the value of the property, the director shall publish notice of the sale once a week for at least two consecutive weeks before the sale in at least one newspaper of general circulation in the county in which the sale is to be held)) and wildlife are property of the state under RCW 77.04.012. Fish and wildlife officers may sell seized, commercially harvested fish and shellfish to a wholesale buyer and deposit the proceeds into the fish and wildlife enforcement reward account under RCW 77.15.425. Seized, recreationally harvested fish, shellfish, and wildlife may be donated to nonprofit charitable organizations. The charitable organization must qualify for tax-exempt status under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code.

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

**NEW SECTION. Sec. 11.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of unlawfully hunting on, or retrieving hunted wildlife from, the property of another if the person knowingly enters or remains unlawfully in or on the premises of another for the purpose of hunting for wildlife or retrieving hunted wildlife.

(2) In any prosecution under this section, it is a defense that:

(a) The premises were at the time open to members of the public for the purpose of hunting, and the actor complied with all lawful conditions imposed on access to or remaining on the premises;

(b) The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him or her to enter or remain on the premises for the purpose of hunting or retrieving hunted wildlife;

(c) The actor reasonably believed that the premises were not privately owned; or

(d) The actor, after making all reasonable attempts to contact the owner of the premises, retrieved the hunted wildlife for the sole purpose of avoiding a violation of the prohibition on the waste of fish and wildlife as provided in RCW 77.15.170. The defense in this subsection only applies to the retrieval of hunted wildlife and not to the actual act of hunting itself.

(3) Unlawfully hunting on or retrieving hunted wildlife from the property of another is a misdemeanor.

(4) If a person unlawfully hunts and kills wildlife, or retrieves hunted wildlife that he or she has killed, on the property of another, then, upon conviction of unlawfully hunting on, or retrieving hunted wildlife from, the property of another, the department shall revoke all hunting licenses and tags and order a suspension of the person's hunting privileges for two years.

(5) Any wildlife that is unlawfully hunted on or retrieved from the property of another must be seized by fish and wildlife officers. Forfeiture and disposition of the wildlife is pursuant to RCW 77.15.100.

**NEW SECTION. Sec. 12.** A new section is added to chapter 77.15 RCW to read as follows:

When seized property, other than fish, shellfish, and wildlife, is judicially forfeited to the department, the department may: (1)

Retain it for official use unless the property is required to be destroyed; (2) upon application by any law enforcement agency of the state, release the property to the agency for use in enforcing this title; (3) donate the property as provided under RCW 77.130.060; or (4) sell the property and deposit the proceeds into the fish and wildlife enforcement reward account created in RCW 77.15.425. Any sale of the property must be done in accordance with RCW 77.130.010(1) and 77.130.020. However, the requirement in those sections for notice to owners does not apply.

**Sec. 13.** RCW 77.15.110 and 2002 c 127 s 2 are each amended to read as follows:

(1) For purposes of this chapter, a person acts for commercial purposes if the person engages in conduct that relates to commerce in fish, seaweed, shellfish, or wildlife or any parts thereof. Commercial conduct may include taking, delivering, selling, buying, or trading fish, seaweed, shellfish, or wildlife where there is present or future exchange of money, goods, or any valuable consideration. Evidence that a person acts for commercial purposes includes, but is not limited to, the following conduct:

- (a) Using gear typical of that used in commercial fisheries;
- (b) Exceeding the bag or possession limits for personal use by taking or possessing more than three times the amount of fish, seaweed, shellfish, or wildlife allowed;
- (c) Delivering or attempting to deliver fish, seaweed, shellfish, or wildlife to a person who sells or resells fish, seaweed, shellfish, or wildlife including any licensed or unlicensed wholesaler;
- (d) Taking fish or shellfish using a vessel designated on a commercial fishery license or using gear not authorized in a personal use fishery;
- (e) Using a commercial fishery license;
- (f) Selling or dealing in raw furs for a fee or in exchange for goods or services; ~~((or))~~
- (g) Performing taxidermy service on fish, shellfish, or wildlife belonging to another person for a fee or receipt of goods or services; or
- (h) Packs, cuts, processes, or stores the meat of wildlife for consumption, for a fee or in exchange for goods or services.

(2) For purposes of this chapter, the value of any fish, seaweed, shellfish, or wildlife may be proved based on evidence of legal or illegal sales involving the person charged or any other person, of offers to sell or solicitation of offers to sell by the person charged or by any other person, or of any market price for the fish, seaweed, shellfish, or wildlife including market price for farm-raised game animals. The value assigned to specific fish, seaweed, shellfish, or wildlife by RCW 77.15.420 may be presumed to be the value of such fish, seaweed, shellfish, or wildlife. It is not relevant to proof of value that the person charged misrepresented that the fish, seaweed, shellfish, or wildlife was taken in compliance with law if the fish, seaweed, shellfish, or wildlife was unlawfully taken and had no lawful market value.

**Sec. 14.** RCW 77.15.130 and 1998 c 190 s 14 are each amended to read as follows:

- (1) A person is guilty of unlawful taking of protected fish or wildlife if:
  - (a) The person hunts, fishes, possesses, or maliciously kills protected fish or wildlife, or the person possesses or maliciously destroys the eggs or nests of protected fish or wildlife, and the taking has not been authorized by rule of the commission; or
  - (b) The person violates any rule of the commission regarding the taking, harming, harassment, possession, or transport of protected fish or wildlife.
- (2) Unlawful taking of protected fish or wildlife is a misdemeanor.
- (3) In addition to the penalties set forth in subsection (2) of this section, if a person is convicted of violating this section and the violation results in the death of protected wildlife listed in this

subsection, the court shall require payment of the following amounts for each animal killed or possessed. This is a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed each month to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425:

- (a) Ferruginous hawk, two thousand dollars;
  - (b) Common loon, two thousand dollars;
  - (c) Bald eagle, two thousand dollars;
  - (d) Golden eagle, two thousand dollars; and
  - (e) Peregrine falcon, two thousand dollars.
- (4) If two or more persons are convicted under subsection (1) of this section, and subsection (3) of this section is applicable, the criminal wildlife penalty assessment must be imposed against the persons jointly and separately.
- (5)(a) The criminal wildlife penalty assessment under subsection (3) of this section must be imposed regardless of and in addition to any sentence, fines, or costs otherwise provided for violating any provision of this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect.
- (b) This subsection may not be construed to abridge or alter alternative rights of action or remedies in equity or under common law or statutory law, criminal or civil.
- (6) A defaulted criminal wildlife penalty assessment authorized under subsection (3) of this section may be collected by any means authorized by law for the enforcement of orders of the court or collection of a fine or costs, including but not limited to vacation of a deferral of sentencing or vacation of a suspension of sentence.
- (7) The department shall revoke the hunting license and suspend the hunting privileges of a person assessed a criminal wildlife penalty assessment under this section until the penalty assessment is paid through the registry of the court in which the penalty assessment was assessed.
- (8) The criminal wildlife penalty assessments provided in subsection (3) of this section must be doubled in the following instances:
- (a) When a person commits a violation that requires payment of a criminal wildlife penalty assessment within five years of a prior gross misdemeanor or felony conviction under this title; or
  - (b) When the person killed the protected wildlife in question with the intent of bartering, selling, or otherwise deriving economic profit from the wildlife or wildlife parts.

**Sec. 15.** RCW 77.15.160 and 2000 c 107 s 237 are each amended to read as follows:

~~((A person is guilty of an infraction, which shall))~~ The following acts are infractions and must be cited and punished as provided under chapter 7.84 RCW((if the person)):

- (1) ~~((Fails to immediately record a catch of fish or shellfish on a catch record card required by RCW 77.32.430, or required by rule of the commission under this title; or~~
  - (2) Fishes for personal use using barbed hooks in violation of any rule; or
  - (3) Violates any other rule of the commission or director that is designated by rule as an infraction)) Fishing and shellfishing infractions:
    - (a) Barbed hooks: Fishing for personal use with barbed hooks in violation of any department rule.
    - (b) Catch recording: Failing to immediately record a catch of fish or shellfish on a catch record card as required by RCW 77.32.430 or department rule.
    - (c) Catch reporting: Failing to return a catch record card to the department for other than Puget Sound Dungeness crab, as required by department rule.
    - (d) Recreational fishing: Fishing for fish or shellfish and,

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without yet possessing fish or shellfish, the person:

(i) Owns, but fails to have in the person's possession the license or the catch record card required by chapter 77.32 RCW for such an activity; or

(ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of fishing for fish or shellfish. This subsection does not apply to use of a net to take fish under RCW 77.15.580 or the unlawful use of shellfish gear for personal use under RCW 77.15.382.

(e) Seaweed: Taking, possessing, or harvesting less than two times the daily possession limit of seaweed:

(i) While owning, but not having in the person's possession, the license required by chapter 77.32 RCW; or

(ii) In violation of any rule of the department or the department of natural resources regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of taking, possessing, or harvesting of seaweed.

(f) Unclassified fish or shellfish: Taking unclassified fish or shellfish in violation of any department rule by killing, fishing, taking, holding, possessing, or maliciously injuring or harming fish or shellfish that is not classified as game fish, food fish, shellfish, protected fish, or endangered fish.

(g) Wasting fish or shellfish: Killing, taking, or possessing fish or shellfish having a value of less than two hundred fifty dollars and allowing the fish or shellfish to be wasted.

(2) Hunting infractions:

(a) Eggs or nests: Maliciously, and without permit authorization, destroying, taking, or harming the eggs or active nests of a wild bird not classified as endangered or protected. For purposes of this subsection, "active nests" means nests that contain eggs or fledglings.

(b) Unclassified wildlife: Taking unclassified wildlife in violation of any department rule by killing, hunting, taking, holding, possessing, or maliciously injuring or harming wildlife that is not classified as big game, game animals, game birds, protected wildlife, or endangered wildlife.

(c) Wasting wildlife: Killing, taking, or possessing wildlife that is not classified as big game and has a value of less than two hundred fifty dollars, and allowing the wildlife to be wasted.

(d) Wild animals: Hunting for wild animals not classified as big game and, without yet possessing the wild animals, the person owns, but fails to have in the person's possession, all licenses, tags, or permits required by this title.

(e) Wild birds: Hunting for and, without yet possessing a wild bird or birds, the person:

(i) Owns, but fails to have in the person's possession, all licenses, tags, stamps, and permits required under this title; or

(ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of hunting wild birds.

(3) Trapping, taxidermy, fur dealing, and wildlife meat cutting infractions:

(a) Recordkeeping and reporting: If a person is a taxidermist, fur dealer, or wildlife meat cutter who is processing, holding, or storing wildlife for commercial purposes, failing to:

(i) Maintain records as required by department rule; or

(ii) Report information from these records as required by department rule.

(b) Trapper's report: Failing to report trapping activity as required by department rule.

(4) Other infractions:

(a) Contests: Conducting, holding, or sponsoring a hunting contest, a fishing contest involving game fish, or a competitive field trial using live wildlife.

(b) Other rules: Violating any other department rule that is designated by rule as an infraction.

(c) Posting signs: Posting signs preventing hunting or fishing on any land not owned or leased by the person doing the posting, or without the permission of the person who owns, leases, or controls the land posted.

(d) Scientific permits: Using a scientific permit issued by the director for fish, shellfish, or wildlife, but not including big game or big game parts, and the person:

(i) Violates any terms or conditions of the scientific permit; or

(ii) Violates any department rule applicable to the issuance or use of scientific permits.

(e) Transporting aquatic plants: Transporting aquatic plants on any state or public road, including forest roads. However:

(i) This subsection does not apply to plants that are:

(A) Being transported to the department or to another destination designated by the director, in a manner designated by the department, for purposes of identifying a species or reporting the presence of a species;

(B) Legally obtained for aquarium use, wetland or lakeshore restoration, or ornamental purposes;

(C) Located within or on a commercial aquatic plant harvester that is being transported to a suitable location to remove aquatic plants;

(D) Being transported in a manner that prevents their unintentional dispersal, to a suitable location for disposal, research, or educational purposes; or

(E) Being transported in such a way as the commission may otherwise prescribe; and

(ii) This subsection does not apply to a person who:

(A) Is stopped at an aquatic invasive species check station and possesses a recreational or commercial watercraft that is contaminated with an aquatic invasive plant species if that person complies with all department directives for the proper decontamination of the watercraft and equipment; or

(B) Has voluntarily submitted a recreational or commercial watercraft for inspection by the department or its designee and has received a receipt verifying that the watercraft has not been contaminated since its last use.

**Sec. 16.** RCW 77.15.170 and 1999 c 258 s 5 are each amended to read as follows:

(1) A person is guilty of waste of fish and wildlife (~~in the second degree~~) if:

(a) ((The person kills, takes, or possesses fish, shellfish, or wildlife and the value of the fish, shellfish, or wildlife is greater than twenty dollars but less than two hundred fifty dollars; and

(b) The person recklessly allows such fish, shellfish, or wildlife to be wasted.

(2) A person is guilty of waste of fish and wildlife in the first degree if:

(a)) The person kills, takes, or possesses fish, shellfish, or wildlife having a value of two hundred fifty dollars or more or wildlife classified as big game; and

(b) The person recklessly allows such fish, shellfish, or wildlife to be wasted.

~~((3)(a) Waste of fish and wildlife in the second degree is a misdemeanor.~~

~~(b))~~ (2) Waste of fish and wildlife (~~in the first degree~~) is a gross misdemeanor. Upon conviction, the department shall revoke any license or tag used in the crime and shall order suspension of the person's privileges to engage in the activity in which the person committed waste of fish and wildlife (~~in the first degree~~) for a period of one year.

~~((4))~~ (3) It is prima facie evidence of waste if:

(a) A processor purchases or engages a quantity of food fish,

shellfish, or game fish that cannot be processed within sixty hours after the food fish, game fish, or shellfish are taken from the water, unless the food fish, game fish, or shellfish are preserved in good marketable condition; or

(b) A person brings a big game animal to a wildlife meat cutter and then abandons the animal. For purposes of this subsection (3)(b), a big game animal is deemed to be abandoned when its carcass is placed in the custody of a wildlife meat cutter for butchering and processing and:

(i) Having been placed in such custody for an unspecified period of time, the meat is not removed within thirty days after the wildlife meat cutter gives notice to the person who brought in the carcass or, having been so notified, the person who brought in the carcass refuses or fails to pay the agreed upon or reasonable charges for the butchering or processing of the carcass; or

(ii) Having been placed in such custody for a specified period of time, the meat is not removed at the end of the specified period or the person who brought in the carcass refuses to pay the agreed upon or reasonable charges for the butchering or processing of the carcass.

**Sec. 17.** RCW 77.15.190 and 1999 c 258 s 9 are each amended to read as follows:

(1) A person is guilty of unlawful trapping if the person:

(a) Sets out traps that are capable of taking wild animals, game animals, or furbearing mammals and does not possess all licenses, tags, or permits required under this title;

(b) Violates any department rule (~~(of the commission or director)~~) regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the trapping of wild animals, with the exception of reporting rules; or

(c) Fails to identify the owner of the traps or devices by neither (i) attaching a metal tag with the owner's department-assigned identification number or the name and address of the trapper legibly written in numbers or letters not less than one-eighth inch in height nor (ii) inscribing into the metal of the trap such number or name and address.

(2) Unlawful trapping is a misdemeanor.

**Sec. 18.** RCW 77.15.240 and 1998 c 190 s 30 are each amended to read as follows:

(1) A person is guilty of unlawful use of dogs if the person:

(a) Negligently fails to prevent a dog under the person's control from pursuing, harassing, attacking, or (~~injuring~~) killing deer, elk, moose, caribou, mountain sheep, or (~~any~~) animals classified as endangered under this title; or

(b) Uses the dog to hunt deer or elk(, or

(c) During the closed season for a species of game animal or game bird, negligently fails to prevent the dog from pursuing such animal or destroying the nest of a game bird)).

(2) For purposes of this section, a dog is "under a person's control" if the dog is owned or possessed by, or in the custody of, a person.

(3) Unlawful use of dogs is a misdemeanor. (~~(A dog that is the basis for a violation of this section may be declared a public nuisance.)~~)

(4)(a) Based on a reasonable belief that a dog is pursuing, harassing, attacking, or killing a snow bound deer, elk, moose, caribou, mountain sheep, or animals classified as protected or endangered under this title, fish and wildlife officers and ex officio fish and wildlife officers may:

(i) Lawfully take a dog into custody; or

(ii) If necessary to avoid repeated harassment, injury, or death of wildlife under this section, destroy the dog.

(b) Fish and wildlife officers and ex officio fish and wildlife officers who destroy a dog pursuant to this section are immune from civil or criminal liability arising from their actions.

**Sec. 19.** RCW 77.15.260 and 2001 c 253 s 33 are each amended to read as follows:

(1) A person is guilty of unlawful trafficking in fish, shellfish, or wildlife in the second degree if the person traffics in fish, shellfish, or wildlife with a wholesale value of less than two hundred fifty dollars and:

(a) The fish or wildlife is classified as game, food fish, shellfish, game fish, or protected wildlife and the trafficking is not authorized by statute or department rule (~~(of the department)~~); or

(b) The fish, shellfish, or wildlife is unclassified and the trafficking violates any department rule (~~(of the department)~~).

(2)(a) A person is guilty of unlawful trafficking in fish, shellfish, or wildlife in the first degree if the person commits the act described by subsection (1) of this section and:

~~((a))~~ (i) The fish, shellfish, or wildlife has a value of two hundred fifty dollars or more; or

~~((b))~~ (ii) The fish, shellfish, or wildlife is designated as an endangered species or deleterious exotic wildlife and such trafficking is not authorized by any statute or department rule (~~(of the department)~~).

(b) For purposes of this subsection (2), whenever any series of transactions that constitute unlawful trafficking would, when considered separately, constitute unlawful trafficking in the second degree due to the value of the fish, shellfish, or wildlife, and the series of transactions are part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all the transactions considered when determining the degree of unlawful trafficking involved.

(3)(a) Unlawful trafficking in fish, shellfish, or wildlife in the second degree is a (~~gross misdemeanor~~) class C felony.

(b) Unlawful trafficking in fish, shellfish, or wildlife in the first degree is a class (~~(C)~~) B felony.

**Sec. 20.** RCW 77.15.280 and 2008 c 244 s 2 are each amended to read as follows:

(1) A person is guilty of violating rules requiring reporting of fish or wildlife harvest if the person:

(a) Fails to make a harvest log report of a commercial fish or shellfish catch in violation of any department rule (~~(of the commission or the director)~~); or

(b) (~~(Fails to maintain a trapper's report or taxidermist ledger in violation of any rule of the commission or the director;~~

~~(c))~~ Fails to submit any portion of a big game animal for ((a required)) an inspection as required by department rule (~~(of the commission or the director;~~ or

~~(d) Fails to return a catch record card to the department as required by rule of the commission or director, except for catch record cards officially endorsed for Puget Sound Dungeness crab)).~~

(2) Violating rules requiring reporting of fish or wildlife harvest is a misdemeanor.

**Sec. 21.** RCW 77.15.290 and 2007 c 350 s 6 are each amended to read as follows:

(1) A person is guilty of unlawful transportation of fish or wildlife in the second degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any department rule (~~(of the commission or the director)~~) governing the transportation or movement of fish, shellfish, or wildlife and the transportation does not involve big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife having a value greater than two hundred fifty dollars; or

(b) Possesses but fails to affix or notch a big game transport tag as required by department rule (~~(of the commission or director)~~).

(2) A person is guilty of unlawful transportation of fish or wildlife in the first degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any department rule (~~(of the~~

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~~commission or the director~~) governing the transportation or movement of fish, shellfish, or wildlife and the transportation involves big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife with a value of two hundred fifty dollars or more; or

(b) Knowingly transports shellfish, shellstock, or equipment used in commercial culturing, taking, handling, or processing shellfish without a permit required by authority of this title.

(3)(a) Unlawful transportation of fish or wildlife in the second degree is a misdemeanor.

(b) Unlawful transportation of fish or wildlife in the first degree is a gross misdemeanor.

(4) ((A person is guilty of unlawful transport of aquatic plants if the person transports aquatic plants on any state or public road, including forest roads, except as provided in this section.

(5) Unless otherwise prohibited by law, a person may transport aquatic plants:

(a) To the department, or to another destination designated by the director, in a manner designated by the department, for purposes of identifying a species or reporting the presence of a species;

(b) When legally obtained for aquarium use, wetland or lakeshore restoration, or ornamental purposes;

(c) When transporting a commercial aquatic plant harvester to a suitable location for purposes of removing aquatic plants;

(d) In a manner that prevents their unintentional dispersal, to a suitable location for disposal, research, or educational purposes; or

(e) As the commission may otherwise prescribe.

(6) Unlawful transport of aquatic plants is a misdemeanor.

(7)) This section does not apply to: (a) Any person stopped at an aquatic invasive species check station who possesses a recreational or commercial watercraft that is contaminated with an aquatic invasive species if that person complies with all department directives for the proper decontamination of the watercraft and equipment; or (b) any person who has voluntarily submitted a recreational or commercial watercraft for inspection by the department or its designee and has received a receipt verifying that the watercraft has not been contaminated since its last use.

**Sec. 22.** RCW 77.15.370 and 2009 c 333 s 17 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the first degree if:

(a) The person takes, possesses, or retains two times or more than the bag limit or possession limit of fish or shellfish allowed by any rule of the director or commission setting the amount of food fish, game fish, or shellfish that can be taken, possessed, or retained for noncommercial use;

(b) The person fishes in a fishway;

(c) The person shoots, gaffs, snags, snares, spears, dipnets, or stones fish or shellfish in state waters, or possesses fish or shellfish taken by such means, unless such means are authorized by express department rule ((of the commission or director));

(d) The person fishes for or possesses a fish listed as threatened or endangered in 50 C.F.R. Sec. ((17.11(2002))) 223.102 (2006) or Sec. 224.101 (2010), unless fishing for or possession of such fish is specifically allowed under federal or state law; ((e))

(e) The person possesses a sturgeon measuring in excess of the maximum size limit as established by rules adopted by the department; or

(f) The person possesses a salmon or steelhead during a season closed for that species.

(2) Unlawful recreational fishing in the first degree is a gross misdemeanor.

**Sec. 23.** RCW 77.15.380 and 2010 c 193 s 5 are each amended to read as follows:

(1) A person is guilty of unlawful recreational fishing in the second degree if the person fishes for((s)) fish or shellfish and, whether or not the person possesses fish or shellfish, the person has not purchased the appropriate fishing or shellfishing license and catch record card issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful recreational fishing in the second degree if the person takes, possesses, or harvests fish or shellfish and:

(a) The person owns, but does not have ((and possess)) in the person's possession, the license or the catch record card required by chapter 77.32 RCW for such activity; or

(b) The action violates any department rule ((of the commission or the director)) regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas, closed times, or any other rule addressing the manner or method of fishing or possession of fish((-except for)). This section does not apply to use of a net to take fish ((as provided for in)) under RCW 77.15.580 ((and)) or the unlawful use of shellfish gear for personal use ((as provided in)) under RCW 77.15.382.

((2)) (3) Unlawful recreational fishing in the second degree is a misdemeanor.

**Sec. 24.** RCW 77.15.390 and 2001 c 253 s 40 are each amended to read as follows:

(1) A person is guilty of unlawful taking of seaweed if the person takes, possesses, or harvests seaweed and:

(a) The person ((does not have and possess the license required by chapter 77.32 RCW for taking seaweed)) has not purchased a personal use shellfish and seaweed license issued to Washington residents or nonresidents under chapter 77.32 RCW; or

(b) The ((action violates any rule of the department or the department of natural resources regarding seasons, possession limits, closed areas, closed times, or any other rule addressing the manner or method of taking, possessing, or harvesting)) person takes, possesses, or harvests seaweed in an amount that is two times or more of the daily possession limit of seaweed.

(2) Unlawful taking of seaweed is a misdemeanor. This does not affect rights of the state to recover civilly for trespass, conversion, or theft of state-owned valuable materials.

**Sec. 25.** RCW 77.15.400 and 2006 c 148 s 1 are each amended to read as follows:

(1) A person is guilty of unlawful hunting of wild birds in the second degree if the person hunts for wild birds and, whether or not the person possesses wild birds, the person has not purchased the appropriate hunting license issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful hunting of wild birds in the second degree if the person takes or possesses less than two times the bag or possession limit of wild birds and the person:

(a) ((Hunts for, takes, or possesses a wild bird and the person does not have and possess)) Owns, but does not have in the person's possession, all licenses, tags, stamps, and permits required under this title; or

(b) ((Maliciously destroys, takes, or harms the eggs or nests of a wild bird except when authorized by permit;

(c)) Violates any department rule ((of the commission or director)) regarding seasons, bag or possession limits ((but less than two times the bag or possession limit)), closed areas, closed times, or ((other rule addressing)) the manner or method of hunting or possession of wild birds(; or

(d) Possesses a wild bird taken during a closed season for that wild bird or taken from a closed area for that wild bird)).

((2)) (3) A person is guilty of unlawful hunting of wild birds in the first degree if the person takes or possesses two times or more

than the possession or bag limit for wild birds allowed by department rule (~~(of the commission or director)~~).

~~((3))~~ (4)(a) Unlawful hunting of wild birds in the second degree is a misdemeanor.

(b) Unlawful hunting of wild birds in the first degree is a gross misdemeanor.

~~((4))~~ (5) In addition to the penalties set forth in this section, if a person, other than a youth as defined in RCW 77.08.010 for hunting purposes, violates a department rule (~~(adopted by the commission under the authority of this title)~~) that requires the use of nontoxic shot, upon conviction:

(a) The court shall require a payment of one thousand dollars as a criminal wildlife penalty assessment that must be paid to the clerk of the court and distributed to the state treasurer for deposit in the fish and wildlife enforcement reward account created in RCW 77.15.425. The criminal wildlife penalty assessment must be imposed regardless of and in addition to any sentence, fine, or costs imposed for violating this section. The criminal wildlife penalty assessment must be included by the court in any pronouncement of sentence and may not be suspended, waived, modified, or deferred in any respect; and

(b) The department shall revoke the hunting license of the person and order a suspension of small game hunting privileges for two years.

**Sec. 26.** RCW 77.15.410 and 2011 c 133 s 1 are each amended to read as follows:

(1) A person is guilty of unlawful hunting of big game in the second degree if the person:

(a) Hunts for, takes, or possesses big game and the person does not have and possess all licenses, tags, or permits required under this title; or

(b) Violates any department rule (~~(of the commission or director)~~) regarding seasons, bag or possession limits, closed areas including game reserves, closed times, or any other rule governing the hunting, taking, or possession of big game (~~(or~~

~~(e) Possesses big game taken during a closed season for that big game or taken from a closed area for that big game).~~

(2) A person is guilty of unlawful hunting of big game in the first degree if the person commits the act described in subsection (1) of this section and:

(a) The person hunts for, takes, or possesses three or more big game animals within the same course of events; or

(b) The act occurs within five years of the date of a prior conviction under this title involving unlawful hunting, killing, possessing, or taking big game.

(3)(a) Unlawful hunting of big game in the second degree is a gross misdemeanor. Upon conviction of an offense involving killing or possession of big game taken during a closed season, closed area, (~~(or taken)~~) without the proper license, tag, or permit using an unlawful method, or in excess of the bag or possession limit, the department shall revoke all of the person's hunting licenses and tags and order a suspension of the person's hunting privileges for two years.

(b) Unlawful hunting of big game in the first degree is a class C felony. Upon conviction, the department shall revoke all of the person's hunting licenses or tags and order the person's hunting privileges suspended for ten years.

(4) For the purposes of this section, "same course of events" means within one twenty-four hour period, or a pattern of conduct composed of a series of acts that are unlawful under subsection (1) of this section, over a period of time evidencing a continuity of purpose.

**Sec. 27.** RCW 77.15.430 and 1999 c 258 s 4 are each amended to read as follows:

(1) A person is guilty of unlawful hunting of wild animals in the second degree if the person hunts for wild animals not classified as

big game and, whether or not the person possesses the wild animals, the person has not purchased the appropriate hunting license issued to Washington residents or nonresidents under chapter 77.32 RCW.

(2) A person is guilty of unlawful hunting of wild animals in the second degree if the person:

(a) (~~(Hunts for,)~~ Takes(~~(or)~~) or possesses a wild animal that is not classified as big game, and owns, but does not have (~~(and possess)~~) in the person's possession, all licenses, tags, or permits required by this title; or

(b) Violates any department rule (~~(of the commission or director)~~) regarding seasons, bag or possession limits but less than two times the bag or possession limit, closed areas including game reserves, closed times, or any other rule addressing the manner or method of hunting or possession of wild animals not classified as big game(~~(or~~

~~(e) Possesses a wild animal that is not classified as big game taken during a closed season for that wild animal or from a closed area for that wild animal).~~

~~((2))~~ (3) A person is guilty of unlawful hunting of wild animals in the first degree if the person takes or possesses two times or more than the possession or bag limit for wild animals that are not classified as big game animals as allowed by department rule (~~(of the commission or director)~~).

~~((3))~~ (4)(a) Unlawful hunting of wild animals in the second degree is a misdemeanor.

(b) Unlawful hunting of wild animals in the first degree is a gross misdemeanor.

**Sec. 28.** RCW 77.15.460 and 1999 c 258 s 7 are each amended to read as follows:

(1) A person is guilty of unlawful possession of a loaded (~~(firearm in a motor vehicle)~~) rifle or shotgun in a motor vehicle, as defined in RCW 46.04.320, or upon an off-road vehicle, as defined in RCW 46.04.365, if:

(a) The person carries, transports, conveys, possesses, or controls a rifle or shotgun in (~~(or on)~~) a motor vehicle, or upon an off-road vehicle, except as allowed by department rule; and

(b) The rifle or shotgun contains shells or cartridges in the magazine or chamber, or is a muzzle-loading firearm that is loaded and capped or primed.

(2) A person is guilty of unlawful use of a loaded firearm if:

(a) The person negligently (~~(shoots)~~) discharges a firearm from, across, or along the maintained portion of a public highway; or

(b) The person discharges a firearm from within a moving motor vehicle or from upon a moving off-road vehicle.

(3) Unlawful possession of a loaded (~~(firearm in)~~) rifle or shotgun in a motor vehicle or upon an off-road vehicle, and unlawful use of a loaded firearm (~~(is a)~~) are misdemeanors.

(4) This section does not apply if the person:

(a) Is a law enforcement officer who is authorized to carry a firearm and is on duty within the officer's respective jurisdiction;

(b) Possesses a disabled hunter's permit as provided by RCW 77.32.237 and complies with all rules of the department concerning hunting by persons with disabilities; or

(c) Discharges the rifle or shotgun from upon a nonmoving motor vehicle or a nonmoving off-road vehicle, as long as the engine is turned off and the motor vehicle or off-road vehicle is not parked on or beside the maintained portion of a public road, except as authorized by the commission by rule.

(5) For purposes of subsection (1) of this section, a (~~(firearm)~~) rifle or shotgun shall not be considered loaded if the detachable clip or magazine is not inserted in or attached to the (~~(firearm)~~) rifle or shotgun.

**Sec. 29.** RCW 77.15.610 and 2009 c 333 s 5 are each amended to read as follows:

(1) A person who holds a fur (~~(buyer's)~~) dealer's license or taxidermy license is guilty of unlawful use of a commercial wildlife

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license if the person(~~(~~

~~(a)) fails to purchase and have in the ((license in)) person's possession the required license while engaged in fur buying or practicing taxidermy for commercial purposes(~~(~~~~

~~(b) Violates any rule of the department regarding reporting requirements or the use, possession, display, or presentation of the taxidermy or fur buyer's license)).~~

(2) Unlawful use of a commercial wildlife license is a misdemeanor.

**Sec. 30.** RCW 77.15.620 and 2009 c 333 s 20 are each amended to read as follows:

(1) A person is guilty of engaging in fish dealing activity without a license in the second degree if the person:

(a) Engages in the commercial processing of fish or shellfish, including custom canning or processing of personal use fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(1) or 77.65.480 for anadromous game fish, or a direct retail endorsement under RCW 77.65.510;

(b) Engages in the wholesale selling, buying, or brokering of food fish or shellfish and does not hold a wholesale dealer's or buying license required by RCW 77.65.280(2) or 77.65.480 for anadromous game fish;

(c) Is a fisher who lands and sells his or her catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state and does not hold a direct retail endorsement required by RCW 77.65.510; or

(d) Engages in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other by-products from food fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(4) or 77.65.480 for anadromous game fish.

~~(2) ((Engaging in fish dealing activity without a license in the second degree is a gross misdemeanor.~~

~~(3)) A person is guilty of engaging in fish dealing activity without a license in the first degree if the person commits the act described by subsection (1) of this section and the violation involves(~~(~~~~(a))~~ fish or shellfish worth two hundred fifty dollars or more(~~(~~~~(b)~~ a failure to document such fish or shellfish with a fish receiving ticket or other documentation required by statute or rule of the department; or ~~(c)~~ violates [a violation of] any other rule of the department regarding wholesale fish buying and dealing)).~~

(3)(a) Engaging in fish dealing activity without a license in the second degree is a gross misdemeanor.

(b) Engaging in fish dealing activity without a license in the first degree is a class C felony.

**Sec. 31.** RCW 77.15.630 and 2000 c 107 s 254 are each amended to read as follows:

(1) A person who ((holds a fish dealer's license required by RCW 77.65.280, an anadromous game fish buyer's license required by RCW 77.65.480, or a fish buyer's license required by RCW 77.65.340 is guilty of unlawful use of fish buying and dealing licenses)) acts in the capacity of a wholesale fish dealer, anadromous game fish buyer, or a fish buyer is guilty of unlawful fish and shellfish catch accounting in the second degree if the person:

(a) Possesses or receives fish or shellfish for commercial purposes worth less than two hundred fifty dollars; and

(b) Fails to document such fish or shellfish with a fish-receiving ticket or other documentation required by statute or department rule ((of the department)); or

(c) Fails to sign the fish receiving ticket or other required documentation, fails to provide all of the information required by statute or department rule on the fish receiving ticket or other documentation, or both.

(2) A person is guilty of unlawful ((use of fish buying and dealing licenses)) fish and shellfish catch accounting in the first

degree if the person commits the act described by subsection (1) of this section and:

(a) The violation involves fish or shellfish worth two hundred fifty dollars or more;

(b) The person acted with knowledge that the fish or shellfish were taken from a closed area, at a closed time, or by a person not licensed to take such fish or shellfish for commercial purposes; or

(c) The person acted with knowledge that the fish or shellfish were taken in violation of any tribal law.

(3)(a) Unlawful ((use of fish buying and dealing licenses)) fish and shellfish catch accounting in the second degree is a gross misdemeanor.

(b) Unlawful ((use of fish buying and dealing licenses)) fish and shellfish catch accounting in the first degree is a class C felony. Upon conviction, the department shall suspend all privileges to engage in fish buying or dealing for two years.

**Sec. 32.** RCW 77.15.640 and 2002 c 301 s 8 are each amended to read as follows:

(1) A person who holds a wholesale fish dealer's license required by RCW 77.65.280, an anadromous game fish buyer's license required by RCW 77.65.480, a fish buyer's license required by RCW 77.65.340, or a direct retail endorsement under RCW 77.65.510 is guilty of ((violating rules governing)) unlawful wholesale fish buying and dealing if the person:

(a) Fails to possess or display his or her license when engaged in any act requiring the license; or

(b) Fails to display or uses the license in violation of any department rule ((of the department;

(c) Files a signed fish-receiving ticket but fails to provide all information required by rule of the department; or

(d) Violates any other rule of the department regarding wholesale fish buying and dealing)).

(2) ((Violating rules governing)) Unlawful wholesale fish buying and dealing is a gross misdemeanor.

**Sec. 33.** RCW 77.15.650 and 2008 c 10 s 2 are each amended to read as follows:

(1) A person is guilty of unlawful purchase or use of a license in the second degree if the person buys, holds, uses, displays, transfers, or obtains any license, tag, permit, or approval required by this title and the person:

(a) Uses false information to buy, hold, use, display, or obtain a license, permit, tag, or approval;

(b) Acquires, holds, or buys in excess of one license, permit, or tag for a license year if only one license, permit, or tag is allowed per license year;

(c) Except as authorized under RCW 77.32.565, uses or displays a license, permit, tag, or approval that was issued to another person;

(d) Except as authorized under RCW 77.32.565, permits or allows a license, permit, tag, or approval to be used or displayed by another person not named on the license, permit, tag, or approval;

(e) Acquires or holds a license while privileges for the license are revoked or suspended;

(f) Holds a resident license from another state or country. This subsection (1)(f) only applies if the Washington license, tag, permit, or approval that the person buys, holds, uses, displays, transfers, or obtains is a resident license. It is prima facie evidence of a violation of this section if any person who has a resident license from another state or country purchases a resident license, tag, permit, or approval in Washington. This subsection does not apply to individuals who meet the definition of "resident" in section 5(2), (3), and (4) of this act.

(2) A person is guilty of unlawful purchase or use of a license in the first degree if the person commits the act described by subsection (1) of this section and the person was acting with intent

that the license, permit, tag, or approval be used for any commercial purpose. A person is presumed to be acting with such intent if the violation involved obtaining, holding, displaying, or using a license or permit for participation in any commercial fishery issued under this title or a license authorizing fish or wildlife buying, trafficking, or wholesaling.

(3)(a) Unlawful purchase or use of a license in the second degree is a gross misdemeanor. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a two-year suspension of participation in the activities for which the person unlawfully obtained, held, or used a license, permit, tag, or approval.

(b) Unlawful purchase or use of a license in the first degree is a class C felony. Upon conviction, the department shall revoke any unlawfully used or held licenses and order a five-year suspension of participation in any activities for which the person unlawfully obtained, held, or used a license, permit, tag, or approval.

(4) For purposes of this section, a person "uses" a license, permit, tag, or approval if the person engages in any activity authorized by the license, permit, tag, or approval held or possessed by the person. Such uses include but are not limited to fishing, hunting, taking, trapping, delivery or landing fish or wildlife, and selling, buying, or wholesaling of fish or wildlife.

(5) Any license obtained in violation of this section is void upon issuance and is of no legal effect.

**Sec. 34.** RCW 77.15.660 and 1998 c 190 s 55 are each amended to read as follows:

(1) A person is guilty of unlawful use of a scientific permit if the permit issued by the director is for big game or big game parts, and the person:

(a) Violates any terms or conditions of ~~((a))~~ the scientific permit ~~((issued by the director))~~;

(b) Buys or sells ~~((fish or wildlife taken))~~ big game or big game parts that were taken or acquired with a scientific permit; or

(c) Violates any department rule ~~((of the commission or the director))~~ applicable to the issuance or use of scientific permits.

(2) Unlawful use of a scientific permit is a gross misdemeanor.

**Sec. 35.** RCW 77.15.700 and 2009 c 333 s 2 are each amended to read as follows:

(1) The department shall ~~((impose revocation and suspension of))~~ revoke a person's recreational license or licenses and suspend a person's recreational license privileges in the following circumstances:

(a) Upon conviction, if directed by statute for an offense.

(b) Upon conviction ~~((of a violation not involving commercial fishing))~~, failure to appear at a hearing to contest an infraction or criminal charge, or an unvacated payment of a fine or a finding of committed as a final disposition for any infraction, if the department finds that actions of the defendant demonstrated a willful or wanton disregard for conservation of fish or wildlife. Suspension of privileges under this subsection may be permanent.

(c) If a person is convicted, fails to appear at a hearing to contest an infraction or criminal citation, or has an unvacated payment of a fine or a finding of committed as a final disposition for any infraction, twice within ten years for a violation involving unlawful hunting, killing, or possessing big game. Revocation and suspension under this subsection must be ordered for all hunting privileges for two years.

(d) If a person violates, three times or more in a ten-year period, recreational hunting or fishing laws or rules for which the person: (i) Is convicted of an offense; (ii) has an ~~((uncontested notice of))~~ unvacated payment of a fine or a finding of committed as a final disposition for any infraction; or (iii) fails to appear at a hearing to contest ~~((a fish and wildlife infraction; or (iv) is found to have committed))~~ an infraction or a criminal citation. Revocation and suspension under this subsection must be ordered of all recreational hunting and fishing privileges for two years.

(2)(a) A violation punishable as an infraction counts towards the revocation and suspension of recreational hunting and fishing privileges under this section if that violation is:

(i) Punishable as a crime on July 24, 2005, and is subsequently decriminalized; or

(ii) One of the following violations, as they exist on July 24, 2005: RCW 77.15.160; WAC 220-56-116; WAC 220-56-315(11); or WAC 220-56-355 (1) through (4).

(b) The commission may, by rule, designate infractions that do not count towards the revocation and suspension of recreational hunting and fishing privileges.

(3) If either the deferred education licensee or the required nondeferred accompanying person, hunting under the authority of RCW 77.32.155(2), is convicted of a violation of this title, fails to appear at a hearing to contest a fish and wildlife infraction or a criminal citation, or has an unvacated payment of a fine or a finding of committed as a final disposition for any fish and wildlife infraction, except for a violation of RCW 77.15.400 (1) through ~~((3))~~ (4), the department may revoke all hunting licenses and tags and may order a suspension of either or both the deferred education licensee's and the nondeferred accompanying person's hunting privileges for one year.

(4) A person who has a recreational license revoked and privileges suspended under this section may file an appeal with the department pursuant to chapter 34.05 RCW. An appeal must be filed within twenty days of notice of license revocation and privilege suspension. If an appeal is filed, the revocation and suspension issued by the department do not take effect until twenty-one days after the department has delivered an opinion. If no appeal is filed within twenty days of notice of license revocation and suspension, the right to an appeal is waived, and the revocation and suspension take effect twenty-one days following the notice of revocation and suspension.

(5) A recreational license revoked and privilege suspended under this section is in addition to the statutory penalties assigned to the underlying violation.

**Sec. 36.** RCW 77.15.720 and 2000 c 107 s 258 are each amended to read as follows:

(1)(a) If a person ~~((shoots))~~ discharges a firearm, bow, or crossbow while hunting and in a manner that injures, or that a reasonable person would believe is likely to injure, another person ~~((or domestic livestock while hunting))~~, the director shall revoke all of the shooter's hunting licenses and suspend all hunting privileges for three years. If the shooting ~~((of another person or livestock is the result of criminal negligence or reckless or intentional conduct, then the person's))~~ kills or results in the death of another person, then the director shall revoke all of the shooter's hunting licenses and suspend all of the person's hunting privileges ~~((shall be suspended))~~ for ten years. ~~((The))~~

(b) If a person, with malice, discharges a firearm, bow, or crossbow while hunting and in a manner that kills or causes substantial bodily harm to livestock belonging to another person, the director shall revoke all of the shooter's hunting licenses and suspend all hunting privileges for three years. For the purposes of this subsection (1)(b), "malice" has the same meaning as provided in RCW 9A.04.110 but applies to acts against livestock.

(2) A suspension under subsection (1) of this section shall be continued beyond ~~((these))~~ the applicable periods if damages owed to the victim or livestock owner have not been paid by the suspended person. ~~((A))~~ In such a case, no hunting license shall ~~((not))~~ be reissued to the suspended person unless authorized by the director.

~~((2))~~ Within twenty days of service of an order suspending privileges or imposing conditions under this section or RCW 77.15.710, a person may petition for administrative review under chapter 34.05 RCW by serving the director with a petition for

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review. The order is final and unappealable if there is no timely petition for administrative review.) (3) A person who is notified of a license revocation under this section may request an appeal hearing under chapter 34.05 RCW.

((3)) (4) The commission may by rule authorize petitions for reinstatement of administrative suspensions and define circumstances under which such a reinstatement will be allowed.

**Sec. 37.** RCW 77.15.740 and 2008 c 225 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it is unlawful to:

(a) (Approach, by any means, within three hundred feet of a southern resident orca whale (*Orcinus orca*);

(b) Cause a vessel or other object to approach within three hundred feet of a southern resident orca whale;

(c) Intercept a southern resident orca whale. A person intercepts a southern resident orca whale when that person places a vessel or allows a vessel to remain in the path of a whale and the whale approaches within three hundred feet of that vessel;

(d) Fail to disengage the transmission of a vessel that is within three hundred feet of a southern resident orca whale, for which the vessel operator is strictly liable; or

(e) Feed a southern resident orca whale, for which any person feeding a southern resident orca whale is strictly liable.

(2) A person is exempt from subsection (1) of this section where:

(a) A reasonably prudent person in that person's position would determine that compliance with the requirements of subsection (1) of this section will threaten the safety of the vessel, the vessel's crew or passengers, or is not feasible due to vessel design limitations, or because the vessel is restricted in its ability to maneuver due to wind, current, tide, or weather;

(b) That person is lawfully participating in a commercial fishery and is engaged in actively setting, retrieving, or closely tending commercial fishing gear;

(c) That person is acting in the course of official duty for a state, federal, tribal, or local government agency; or

(d) That person is acting pursuant to and consistent with authorization from a state or federal government agency.

(3) Nothing in this section is intended to conflict with existing rules regarding safe operation of a vessel or vessel navigation rules.

(4)) Cause a vessel or other object to approach, in any manner, within two hundred yards of a southern resident orca whale;

(b) Position a vessel to be in the path of a southern resident orca whale at any point located within four hundred yards of the whale. This includes intercepting a southern resident orca whale by positioning a vessel so that the prevailing wind or water current carries the vessel into the path of the whale at any point located within four hundred yards of the whale;

(c) Fail to disengage the transmission of a vessel that is within two hundred yards of a southern resident orca whale; or

(d) Feed a southern resident orca whale.

(2) A person is exempt from subsection (1) of this section if that person is:

(a) Operating a federal government vessel in the course of his or her official duties, or operating a state, tribal, or local government vessel when engaged in official duties involving law enforcement, search and rescue, or public safety;

(b) Operating a vessel in conjunction with a vessel traffic service established under 33 C.F.R. and following a traffic separation scheme, or complying with a vessel traffic service measure of direction. This also includes support vessels escorting ships in the traffic lanes, such as tug boats;

(c) Engaging in an activity, including scientific research, pursuant to a permit or other authorization from the national marine

fisheries service and the department;

(d) Lawfully engaging in a treaty Indian or commercial fishery that is actively setting, retrieving, or closely tending fishing gear;

(e) Conducting vessel operations necessary to avoid an imminent and serious threat to a person, vessel, or the environment, including when necessary for overall safety of navigation and to comply with state and federal navigation requirements; or

(f) Engaging in rescue or clean-up efforts of a beached southern resident orca whale overseen, coordinated, or authorized by a volunteer stranding network.

(3) For the purpose of this section, "vessel" includes aircraft, canoes, fishing vessels, kayaks, personal watercraft, rafts, recreational vessels, tour boats, whale watching boats, vessels engaged in whale watching activities, or other small craft including power boats and sailboats.

((5)) (4)(a) A violation of this section is a natural resource infraction punishable under chapter 7.84 RCW.

(b) A person who qualifies for an exemption under subsection (2) of this section may offer that exemption as an affirmative defense, which that person must prove by a preponderance of the evidence.

**NEW SECTION. Sec. 38.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person may not negligently feed or attempt to feed large wild carnivores or negligently attract large wild carnivores to land or a building.

(2) If a fish and wildlife officer, ex officio fish and wildlife officer, or animal control authority, as defined in RCW 16.30.010, has probable cause to believe that a person is negligently feeding, attempting to feed, or attracting large wild carnivores to land or a building by placing or locating food, food waste, or other substance in, on, or about any land or building, and the food, food waste, or other substance poses a risk to the safety of any person, livestock, or pet because it is attracting or could attract large wild carnivores to the land or building, that person commits an infraction under chapter 7.84 RCW.

(3) Subsection (2) of this section does not apply to:

(a) A person who is engaging in forest practices in accordance with chapter 76.09 RCW or in hunting or trapping wildlife in accordance with all other applicable provisions of this title or rules of the commission or the director;

(b) A person who is engaging in a farming or ranching operation that is using generally accepted farming or ranching practices consistent with Titles 15 and 16 RCW;

(c) Waste disposal facilities that are operating in accordance with applicable federal, state, and municipal laws;

(d) Entities listed in RCW 16.30.020(1) (a) through (j) and scientific collection permit holders; or

(e) A fish and wildlife officer or employee or agent of the department operating under the authority of or upon request from an officer conducting authorized wildlife capture activities to address a threat to human safety or a wildlife interaction as defined in RCW 77.36.010.

(4) For persons and entities listed in subsection (3) of this section, a fish and wildlife officer, ex officio fish and wildlife officer, or animal control authority, as defined in RCW 16.30.010, may issue a written warning to the person or entity if:

(a) The officer or animal control authority can articulate facts to support that the person or entity has placed or is responsible for placing food, food waste, or other substance in, on, or about the person's or entity's land or buildings; and

(b) The food, food waste, or other substance poses a risk to the safety of any person, livestock, or pet because the food, food waste, or other substance is attracting or could attract large wild carnivores to the land or buildings.

(5)(a) Any written warning issued under subsection (4) of this section requires the person or entity placing or otherwise responsible for placing the food, food waste, or other substance to contain, move, or remove that food, food waste, or other substance within two days.

(b) If a person who is issued a written warning under (a) of this subsection fails to contain, move, or remove the food, food waste, or other substance as directed, the person commits an infraction under chapter 7.84 RCW.

**NEW SECTION. Sec. 39.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person may not intentionally feed or attempt to feed large wild carnivores or intentionally attract large wild carnivores to land or a building.

(2) A person who intentionally feeds, attempts to feed, or attracts large wild carnivores to land or a building is guilty of a misdemeanor.

(3) A person who is issued an infraction under section 38 of this act for negligently feeding, attempting to feed, or attracting large wild carnivores to land or a building, and who fails to contain, move, or remove the food, food waste, or other substance within twenty-four hours of being issued the infraction, is guilty of a misdemeanor.

**NEW SECTION. Sec. 40.** The following acts or parts of acts are each repealed:

(1) RCW 77.12.315 (Dogs harassing deer and elk--Declaration of emergency--Taking dogs into custody or destroying--Immunity) and 2000 c 107 s 221, 1987 c 506 s 40, 1980 c 78 s 49, & 1971 ex.s. c 183 s 1;

(2) RCW 77.15.140 (Unclassified fish or wildlife--Unlawful taking-- Penalty) and 1998 c 190 s 15;

(3) RCW 77.15.220 (Unlawful posting--Penalty) and 1998 c 190 s 25; and

(4) RCW 77.15.330 (Unlawful hunting or fishing contests--Penalty) and 2001 c 253 s 36 & 1998 c 190 s 56.

**NEW SECTION. Sec. 41.** 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."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Ranker moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6135.

Senator Ranker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Ranker that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6135.

The motion by Senator Ranker carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6135 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6135, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6135, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Frockt

SUBSTITUTE SENATE BILL NO. 6135, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

March 6, 2012

MR. PRESIDENT:

The House receded from its amendment(s) to SECOND SUBSTITUTE SENATE BILL NO. 5355. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5355-S2 AMH TAYL REIL 080, and passed the bill as amended by the House.

On page 2, line 4, after "web site" strike ", if any" and insert ". An agency is not required to post a special meeting notice on its web site if it (i) does not have a web site; (ii) employs fewer than ten full-time equivalent employees, or (iii) does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the web site and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Morton moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5355.

Senator Morton spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Morton that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5355.

The motion by Senator Morton carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5355 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5355, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5355, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senator Frockt

SIXTIETH DAY, MARCH 8, 2012

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SECOND SUBSTITUTE SENATE BILL NO. 5355, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

On page 4, line 19, beginning with "(3)" strike all material through "2012." on line 29  
 Renumber the remaining section consecutively and correct any internal references accordingly.  
 and the same are herewith transmitted.

MESSAGE FROM THE HOUSE

BARBARA BAKER, Chief Clerk

February 27, 2012

MOTION

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5766 with the following amendment(s): 5766-S AMH LG PFUN 111

On page 1, line 11, after "~~(forty)~~" insert "eighty-four" and the same are herewith transmitted.

Senator Benton moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6383.

Senator Benton spoke in favor of the motion.

BARBARA BAKER, Chief Clerk

The President declared the question before the Senate to be the motion by Senator Benton that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6383.

MOTION

The motion by Senator Benton carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6383 by voice vote.

Senator Roach moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5766.

Senator Roach spoke in favor of the motion.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6383, as amended by the House.

MOTION

ROLL CALL

On motion of Senator Harper, Senator Ranker was excused.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5766.

The motion by Senator Roach carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5766 by voice vote.

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6383, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5766, as amended by the House.

Voting nay: Senator Pridemore  
 Excused: Senator Frockt

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5766, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 6383, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:38 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

Excused: Senators Frockt and Ranker

SUBSTITUTE SENATE BILL NO. 5766, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

AFTERNOON SESSION

The Senate was called to order at 1:54 p.m. by President Owen.

MESSAGE FROM THE HOUSE

March 8, 2012

February 29, 2012

MR. PRESIDENT:

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6383 with the following amendment(s): 6383-S.E AMH HUNS CLYN 400

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2483,

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2536,

HOUSE BILL NO. 2803.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House has passed SUBSTITUTE HOUSE BILL NO. 2139.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth  
order of business.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Frockt moved that Gubernatorial Appointment No.  
9170, Elizabeth Willis, as a member of the State Board for  
Community and Technical Colleges, be confirmed.

Senator Frockt spoke in favor of the motion.

APPOINTMENT OF ELIZABETH WILLIS

The President declared the question before the Senate to be  
the confirmation of Gubernatorial Appointment No. 9170,  
Elizabeth Willis as a member of the State Board for Community  
and Technical Colleges.

The Secretary called the roll on the confirmation of  
Gubernatorial Appointment No. 9170, Elizabeth Willis as a  
member of the State Board for Community and Technical  
Colleges and the appointment was confirmed by the following  
vote: Yeas, 46; Nays, 1; Absent, 2; Excused, 0.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase,  
Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove,  
Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry,  
Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles,  
Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette,  
Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes,  
Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Baumgartner

Absent: Senators Haugen and Kline

Gubernatorial Appointment No. 9170, Elizabeth Willis,  
having received the constitutional majority was declared  
confirmed as a member of the State Board for Community and  
Technical Colleges.

MOTION

On motion of Senator Harper, Senators Haugen and Kline  
were excused.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Frockt moved that Gubernatorial Appointment No.  
9104, Manford Simcock, as a member of the Higher Education  
Facilities Authority, be confirmed.

Senator Frockt spoke in favor of the motion.

APPOINTMENT OF MANFORD SIMCOCK

The President declared the question before the Senate to be  
the confirmation of Gubernatorial Appointment No. 9104,  
Manford Simcock as a member of the Higher Education Facilities  
Authority.

The Secretary called the roll on the confirmation of  
Gubernatorial Appointment No. 9104, Manford Simcock as a  
member of the Higher Education Facilities Authority and the  
appointment was confirmed by the following vote: Yeas, 47;  
Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase,  
Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove,  
Harper, Hatfield, Hewitt, Hill, Hobbs, Holmquist Newbry,  
Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles,  
Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette,  
Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes,  
Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Baumgartner

Excused: Senator Haugen

Gubernatorial Appointment No. 9104, Manford Simcock,  
having received the constitutional majority was declared  
confirmed as a member of the Higher Education Facilities  
Authority.

SECOND READING

SENATE BILL NO. 6442, by Senators Hobbs, Litzow,  
Keiser, Holmquist Newbry, Hatfield, Hewitt, Kastama,  
Schoesler, Tom, Fain, Hill, Zarelli, Hargrove, Kline, Murray,  
Shin, Sheldon, Fraser, Haugen, Morton, Honeyford, Benton,  
Carrell, Delvin and King

Establishing a consolidating purchasing system for public  
school employees.

MOTION

Senator Keiser moved that Substitute Senate Bill No. 6442 be  
substituted for Senate Bill No. 6442 and the substitute bill be  
placed on the second reading.

MOTION

Senator Schoesler moved that further consideration of Senate  
Bill No. 6442 be deferred and the bill held its place on the second  
reading calendar.

Senator Eide demanded a roll call.

The President declared that one-sixth of the members  
supported the demand and the demand was sustained.

Senator Eide withdrew her demand for a roll call.

The motion by Senator Schoesler carried and further  
consideration of Substitute Senate Bill No. 6442 was deferred and  
the bill held its place on the second reading calendar by a rising  
vote.

MOTION

SIXTIETH DAY, MARCH 8, 2012

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At 2:17 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

has passed the bill as recommended by the Conference Committee.  
and the same is herewith transmitted.

The Senate was called to order at 4:32 p.m. by President Owen.

BARBARA BAKER, Chief Clerk

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

REPORT OF THE CONFERENCE COMMITTEE  
Engrossed Substitute Senate Bill No. 6150  
March 7, 2012

MOTION

Senator Harper moved that Gubernatorial Appointment No. 9186, Geneanne Burke, as a member of the Board of Trustees, Everett Community College District No. 5, be confirmed.

Senator Harper spoke in favor of the motion.

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute Senate Bill No. 6150, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.20.037 and 2006 c 292 s 1 are each amended to read as follows:

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9186, Geneanne Burke as a member of the Board of Trustees, Everett Community College District No. 5.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9186, Geneanne Burke as a member of the Board of Trustees, Everett Community College District No. 5 and the appointment was confirmed by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Baumgartner

Gubernatorial Appointment No. 9186, Geneanne Burke, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Everett Community College District No. 5.

(1) ((No later than two years after full implementation of the provisions of Title II of P.L. 109-13, improved security for driver's licenses and personal identification cards (Real ID), as passed by Congress May 10, 2005.)) The department ((shall)) may implement a ((voluntary biometric)) facial recognition matching system for ((driver's)) drivers' licenses, permits, and identicards. ((A biometric)) Any facial recognition matching system ((shall)) selected by the department must be used only to verify the identity of an applicant for or holder of a ((renewal or duplicate)) driver's license, permit, or identicard ((by matching a biometric identifier submitted by the applicant against the biometric identifier submitted when the license was last issued. This project requires a full review by the information services board using the criteria for projects of the highest visibility and risk)) to determine whether the person has been issued a driver's license, permit, or identicard under a different name or names.

(2) Any ((biometric)) facial recognition matching system selected by the department ((shall)) must be capable of highly accurate matching, and ((shall)) must be compliant with ((biometric)) appropriate standards established by the American association of motor vehicle administrators that exist on the effective date of this section, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(3) ((The biometric matching system selected by the department must incorporate a process that allows the owner of a driver's license or identicard to present a personal identification number or other code along with the driver's license or identicard before the information may be verified by a third party, including a governmental entity.

(4) Upon the establishment of a biometric driver's license and identicard system as described in this section, the department shall allow every person applying for an original, renewal, or duplicate driver's license or identicard to voluntarily submit a biometric identifier. Each applicant shall be informed of all ways in which the biometric identifier may be used, all parties to whom the identifier may be disclosed and the conditions of disclosure, the expected error rates for the biometric matching system which shall be regularly updated as the technology changes or empirical data is collected, and the potential consequences of those errors. The department shall adopt rules to allow applicants to verify the accuracy of the system at the time that biometric information is submitted, including the use of at least two separate devices.

(5) The department may not disclose biometric information to the public or any governmental entity except when authorized by

SIGNED BY THE PRESIDENT

The President signed:

SECOND SUBSTITUTE SENATE BILL NO. 5355,  
SUBSTITUTE SENATE BILL NO. 5766,  
SUBSTITUTE SENATE BILL NO. 6135,  
SENATE BILL NO. 6159,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6383,  
SUBSTITUTE SENATE BILL NO. 6494,  
SUBSTITUTE SENATE BILL NO. 6600.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 6150 and

court order.

(6)) The department shall post notices in conspicuous locations at all department driver licensing offices, make written information available to all applicants at department driver licensing offices, and provide information on the department's web site regarding the facial recognition matching system. The notices, written information, and information on the web site must address how the facial recognition matching system works, all ways in which the department may use results from the facial recognition matching system, how an investigation based on results from the facial recognition matching system would be conducted, and a person's right to appeal any determinations made under this chapter.

(4) Results from the facial recognition matching system:

(a) Are not available for public inspection and copying under chapter 42.56 RCW;

(b) May only be disclosed when authorized by a court order;

(c) May only be disclosed to a federal government agency if specifically required under federal law; and

(d) May only be disclosed by the department to a government agency, including a court or law enforcement agency, for use in carrying out its functions if the department has determined that person has committed one of the prohibited practices listed in RCW 46.20.0921 and this determination has been confirmed by a hearings examiner under this chapter or the person declined a hearing or did not attend a scheduled hearing.

(5) All ((biometric)) personally identifying information ((shall)) derived from the facial recognition matching system must be stored with appropriate security safeguards((, including but not limited to encryption)). The office of the chief information officer shall develop the appropriate security standards for the department's use of the facial recognition matching system, subject to approval and oversight by the technology services board.

((7)) (6) The department shall develop procedures to handle instances in which the ((biometric)) facial recognition matching system fails to verify the identity of an applicant for a renewal or duplicate driver's license, permit, or identicard. These procedures ((shall)) must allow an applicant to prove identity without using ((a biometric identifier.

(8) Any person who has voluntarily submitted a biometric identifier may choose to discontinue participation in the biometric matching program at any time, provided that the department utilizes a secure procedure to prevent fraudulent requests for a renewal or duplicate driver's license or identicard. When the person discontinues participation, any previously collected biometric information shall be destroyed.

(9) This section does not apply when an applicant renews his or her driver's license or identicard by mail or electronic commerce)) the facial recognition matching system.

NEW SECTION. Sec. 2. A new section is added to chapter 46.20 RCW to read as follows:

(1) The department shall report to the governor and the legislature by October 1st of each year, beginning October 1, 2012, on the following numbers during the previous fiscal year: The number of investigations initiated by the department based on results from the facial recognition matching system; the number of determinations made that a person has committed one of the prohibited practices in RCW 46.20.0921 after the completion of an investigation; the number of determinations that were confirmed by a hearings examiner and the number that were overturned by a hearings examiner; the number of cases where a person declined a hearing or did not attend a scheduled hearing; and the number of determinations that were referred to law enforcement.

(2) This section expires June 30, 2017.

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

"Facial recognition matching system" means a system that compares the biometric template derived from an image of an applicant or holder of a driver's license, permit, or identicard with the biometric templates derived from the images in the department's negative file.

NEW SECTION. Sec. 4. RCW 46.20.038 (Biometric matching system--Funding) and 2004 c 273 s 4 are each repealed.

Sec. 5. RCW 46.20.055 and 2010 c 223 s 1 are each amended to read as follows:

(1) **Driver's instruction permit.** The department may issue a driver's instruction permit with or without a photograph to an applicant who has successfully passed all parts of the examination other than the driving test, provided the information required by RCW 46.20.091, paid ((a)) an application fee of twenty-five dollars, and meets the following requirements:

(a) Is at least fifteen and one-half years of age; or

(b) Is at least fifteen years of age and:

(i) Has submitted a proper application; and

(ii) Is enrolled in a traffic safety education program offered, approved, and accredited by the superintendent of public instruction or offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW, that includes practice driving.

(2) **Waiver of written examination for instruction permit.** The department may waive the written examination, if, at the time of application, an applicant is enrolled in:

(a) A traffic safety education course as defined by RCW 28A.220.020(2); or

(b) A course of instruction offered by a licensed driver training school as defined by RCW 46.82.280.

The department may require proof of registration in such a course as it deems necessary.

(3) **Effect of instruction permit.** A person holding a driver's instruction permit may drive a motor vehicle, other than a motorcycle, upon the public highways if:

(a) The person has immediate possession of the permit;

(b) The person is not using a wireless communications device, unless the person is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property; and

(c) An approved instructor, or a licensed driver with at least five years of driving experience, occupies the seat beside the driver.

(4) **Term of instruction permit.** A driver's instruction permit is valid for one year from the date of issue.

(a) The department may issue one additional one-year permit.

(b) The department may issue a third driver's permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.

(c) A person applying ~~((to renew))~~ for an additional instruction permit must submit the application to the department in person and pay an application fee of twenty-five dollars for each issuance.

Sec. 6. RCW 46.20.117 and 2005 c 314 s 305 are each amended to read as follows:

(1) **Issuance.** The department shall issue an identicard, containing a picture, if the applicant:

(a) Does not hold a valid Washington driver's license;

(b) Proves his or her identity as required by RCW 46.20.035; and

(c) Pays the required fee. Except as provided in subsection (5) of this section, the fee is ~~((twenty))~~ forty-five dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013, unless an applicant is a recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services. For those persons the fee must be the actual cost of production of the identicard.

(2) **Design and term.** The identicard must:

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(a) Be distinctly designed so that it will not be confused with the official driver's license; and

(b) Except as provided in subsection (5) of this section, expire on the ~~((fifth))~~ sixth anniversary of the applicant's birthdate after issuance.

(3) **Renewal.** An application for identicard renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her identicard by mail or by electronic commerce when it last expired.

~~((However, the department may accept an application for renewal of an identicard submitted by means of mail or electronic commerce only if specific authority and funding is provided for this purpose by June 30, 2004, in the omnibus transportation appropriations act.))~~

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation.** The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

(5) **Alternative issuance/renewal/extension.** The department may issue or renew an identicard for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or may extend by mail or electronic commerce an identicard that has already been issued, in order to evenly distribute, as nearly as possible, the yearly renewal rate of identicard holders. The fee for an identicard issued or renewed for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or that has been extended by mail or electronic commerce, is nine dollars for each year that the identicard is issued, renewed, or extended. The department may adopt any rules as are necessary to carry out this subsection.

**Sec. 7.** RCW 46.20.120 and 2011 c 370 s 4 are each amended to read as follows:

An applicant for a new or renewed driver's license must successfully pass a driver licensing examination to qualify for a driver's license. The department must ensure that examinations are given at places and times reasonably available to the people of this state. If the department does not administer driver licensing examinations as a routine part of its licensing services within a department region because adequate testing sites are provided by driver training schools or school districts within that region, the department shall, at a minimum, administer driver licensing examinations by appointment to applicants eighteen years of age and older in at least one licensing office within that region.

(1) **Waiver.** The department may waive:

(a) All or any part of the examination of any person applying for the renewal of a driver's license unless the department determines that the applicant is not qualified to hold a driver's license under this title; or

(b) All or any part of the examination involving operating a motor vehicle if the applicant:

(i) Surrenders a valid driver's license issued by the person's previous home state; or

(ii) Provides for verification a valid driver's license issued by a foreign driver licensing jurisdiction with which the department has an informal agreement under RCW 46.20.125; and

(iii) Is otherwise qualified to be licensed.

(2) **Fee.** Each applicant for a new license must pay an examination fee of ~~((twenty))~~ thirty-five dollars.

(a) The examination fee is in addition to the fee charged for issuance of the license.

(b) "New license" means a license issued to a driver:

(i) Who has not been previously licensed in this state; or

(ii) Whose last previous Washington license has been expired for more than ~~((five))~~ six years.

(3) An application for driver's license renewal may be submitted by means of:

(a) Personal appearance before the department; or

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew his or her license by mail or by electronic commerce when it last expired.

(4) A person whose license expired or will expire while he or she is living outside the state, may:

(a) Apply to the department to extend the validity of his or her license for no more than twelve months. If the person establishes to the department's satisfaction that he or she is unable to return to Washington before the date his or her license expires, the department shall extend the person's license. The department may grant consecutive extensions, but in no event may the cumulative total of extensions exceed twelve months. An extension granted under this section does not change the expiration date of the license for purposes of RCW 46.20.181. The department shall charge a fee of five dollars for each license extension;

(b) Apply to the department to renew his or her license by mail or, if permitted by rule of the department, by electronic commerce even if subsection (3)(b) of this section would not otherwise allow renewal by that means. If the person establishes to the department's satisfaction that he or she is unable to return to Washington within twelve months of the date that his or her license expires, the department shall renew the person's license by mail or, if permitted by rule of the department, by electronic commerce.

(5) If a qualified person submits an application for renewal under subsection (3)(b) or (4)(b) of this section, he or she is not required to pass an examination nor provide an updated photograph. A license renewed by mail or by electronic commerce that does not include a photograph of the licensee must be labeled "not valid for identification purposes."

(6) Driver training schools licensed by the department under chapter 46.82 RCW may administer the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle.

(7) School districts that offer a traffic safety education program under chapter 28A.220 RCW may administer the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle.

**Sec. 8.** RCW 46.20.161 and 2000 c 115 s 6 are each amended to read as follows:

The department, upon receipt of a fee of ~~((twenty-five))~~ forty-five dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013, unless the driver's license is issued for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, in which case the fee shall be ~~((five))~~ nine dollars for each year that the license is issued, which includes the fee for the required photograph, shall issue to every qualifying applicant a driver's license. A driver's license issued to a person under the age of eighteen is an intermediate license, subject to the restrictions imposed under RCW 46.20.075, until the person reaches the age of eighteen. The license must include a distinguishing number assigned to the licensee, the name of record, date of birth, Washington residence address, photograph, a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his or her usual signature with pen and ink immediately upon receipt of the license. No license is valid until it has been so signed by the licensee.

**Sec. 9.** RCW 46.20.181 and 1999 c 308 s 3 are each amended to read as follows:

(1) Except as provided in subsection (4) ~~or (5)~~ of this section, every driver's license expires on the ~~((fifth))~~ sixth anniversary of the licensee's birthdate following the issuance of the license.

(2) A person may renew his or her license on or before the expiration date by submitting an application as prescribed by the department and paying a fee of ~~((twenty-five))~~ forty-five dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013. This fee includes the fee for the required photograph.

(3) A person renewing his or her driver's license more than sixty days after the license has expired shall pay a penalty fee of ten dollars in addition to the renewal fee, unless his or her license expired when:

(a) The person was outside the state and he or she renews the license within sixty days after returning to this state; or

(b) The person was incapacitated and he or she renews the license within sixty days after the termination of the incapacity.

(4) ~~((During the period from July 1, 2000, to July 1, 2006,))~~ The department may issue or renew a driver's license for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or may extend by mail or electronic commerce a license that has already been issued, in order to evenly distribute, as nearly as possible, the yearly renewal rate of licensed drivers. The fee for a driver's license issued or renewed for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or that has been extended by mail or electronic commerce, is ~~((five))~~ nine dollars for each year that the license is issued, renewed, or extended. The department may adopt any rules as are necessary to carry out this subsection.

(5) A driver's license that includes a hazardous materials endorsement under chapter 46.25 RCW may expire on an anniversary of the licensee's birthdate other than the sixth year following issuance or renewal of the license in order to match, as nearly as possible, the validity of certification from the federal transportation security administration that the licensee has been determined not to pose a security risk. The fee for a driver's license issued or renewed for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, is nine dollars for each year that the license is issued or renewed, not including any endorsement fees. The department may adjust the expiration date of a driver's license that has previously been issued to conform to the provisions of this subsection if a hazardous materials endorsement is added to the license subsequent to its issuance. If the validity of the driver's license is extended, the licensee must pay a fee of nine dollars for each year that the license is extended.

(6) The department may adopt any rules as are necessary to carry out this section.

**Sec. 10.** RCW 46.20.200 and 2002 c 352 s 14 are each amended to read as follows:

(1) If an instruction permit, identicard, or a driver's license is lost or destroyed, the person to whom it was issued may obtain a duplicate of it upon furnishing proof of such fact satisfactory to the department and payment of a fee of ~~((fifteen))~~ twenty dollars to the department.

(2) A replacement permit, identicard, or driver's license may be obtained to change or correct material information upon payment of a fee of ten dollars and surrender of the permit, identicard, or driver's license being replaced.

**Sec. 11.** RCW 46.20.049 and 2011 c 227 s 6 are each amended to read as follows:

There shall be an additional fee for issuing any class of commercial driver's license in addition to the prescribed fee required for the issuance of the original driver's license. The additional fee for each class shall be ~~((sixty-one))~~ eighty-five dollars from October 1, 2012, to June 30, 2013, and one hundred two dollars after June 30, 2013,

for the original commercial driver's license or subsequent renewals. If the commercial driver's license is issued, renewed, or extended for a period other than five years from October 1, 2012, to June 30, 2013, or six years after June 30, 2013, the fee for each class shall be ~~((twelve))~~ seventeen dollars ~~((and twenty cents))~~ for each year that the commercial driver's license is issued, renewed, or extended. The fee shall be deposited in the highway safety fund.

**Sec. 12.** 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 or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

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

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

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

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if the driver is age twenty-one or over and the test indicates the alcohol concentration of the driver's breath or blood is 0.08 or more, or if the driver is under age twenty-one and the test indicates the alcohol concentration of the driver's breath or blood is 0.02 or more, or if the driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; 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.

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

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

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

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

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section 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 concentration in violation of RCW 46.61.503;

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

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

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101,

such suspension, revocation, or denial to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within 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))~~ three hundred ~~seventy-five~~ dollars as part of the request. If the request is mailed, it must be postmarked within twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required ~~((two))~~ three hundred ~~seventy-five~~ dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required ~~((two))~~ three hundred ~~seventy-five~~ dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person was age twenty-one or over at the time of the arrest, or 0.02 or more if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more and was under the age of twenty-one and that the officer complied with the requirements of this section. A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law

enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(9) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(10)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (7) of this section, other than as a result of a breath or blood test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, 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. 13.** RCW 46.20.505 and 2007 c 97 s 1 are each amended to read as follows:

Every person applying for a special endorsement of a driver's license authorizing such person to drive a two or three-wheeled motorcycle or a motor-driven cycle shall pay a fee of five dollars, which is not refundable. In addition, the endorsement fee for the initial motorcycle endorsement shall not exceed ~~((ten))~~ twelve dollars ~~((and))~~, unless the endorsement is issued for a period other than six years, in which case the endorsement fee shall not exceed two dollars for each year the initial motorcycle endorsement is issued. The subsequent renewal endorsement fee shall not exceed ~~((twenty-five))~~ thirty dollars, unless the endorsement is renewed or extended for a period other than ~~((five))~~ six years, in which case the subsequent renewal endorsement fee shall not exceed five dollars for each year that the endorsement is renewed or extended. Fees collected under this section shall be deposited in the motorcycle safety education account of the highway safety fund.

**NEW SECTION. Sec. 14.** Sections 5 through 13 of this act take effect October 1, 2012."

On page 1, line 3 of the title, after "system;" strike the remainder of the title and insert "amending RCW 46.20.037, 46.20.055, 46.20.117, 46.20.120, 46.20.161, 46.20.181, 46.20.200, 46.20.049, 46.20.308, and 46.20.505; adding a new section to chapter 46.20 RCW; adding a new section to chapter 46.04 RCW; repealing RCW 46.20.038; providing an effective date; and providing an expiration date."

And the bill do pass as recommended by the conference committee.

Signed by Senators Eide, Haugen and King; Representatives Armstrong, Clibborn and Lias.

#### MOTION

Senator Haugen moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6150 be adopted.

Senator Haugen spoke in favor of the motion.

#### POINT OF ORDER

Senator Benton: "I'm not sure Mr. President so I ask for your ruling on this but it's my understanding according to joint rules between the House and the Senate that any conference committee report must remain on the bar for twenty-four hours before the body takes action on that. Is that correct?"

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Senator Benton withdrew his motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6150 be adopted.

The motion by Senator Haugen carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6150, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6150, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rolfes, Shin, Swecker and Tom

Voting nay: Senators Baumgartner, Becker, Benton, Carrell, Delvin, Ericksen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Morton, Padden, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

ENGROSSED SUBSTITUTE SENATE BILL NO. 6150, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 6455 and has passed the bill as recommended by the Conference Committee and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

REPORT OF THE CONFERENCE COMMITTEE

Engrossed Substitute Senate Bill No. 6455

March 7, 2012

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute Senate Bill No. 6455, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.17.100 and 2010 c 161 s 508 are each amended to read as follows:

Before accepting an application for a certificate of title as required in this title, the department, county auditor or other agent, or subagent appointed by the director shall require the applicant to pay a ~~(five)~~ fifteen dollar application fee in addition to any other fees and taxes required by law.

~~(1) Five dollars of the certificate of title application fee must be distributed under RCW 46.68.020.~~

(2) Ten dollars of the certificate of title application fee must be credited to the transportation 2003 account (nickel account) created in RCW 46.68.280.

Sec. 2. RCW 46.17.140 and 2010 c 161 s 512 are each amended to read as follows:

The penalty for a late transfer under RCW 46.12.650(7) is ~~((twenty-five))~~ fifty dollars assessed on the sixteenth day after the date of delivery and two dollars for each additional day thereafter, but the total penalty must not exceed one hundred twenty-five dollars. The penalty must be distributed under RCW 46.68.020.

Sec. 3. RCW 46.17.200 and 2011 c 171 s 56 are each amended to read as follows:

(1) In addition to all other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge:

(a) The following license plate fees for each license plate, unless the owner or type of vehicle is exempt from payment:

FEE TYPE	FEE	DISTRIBUTION
<u>Original issue</u>	<u>\$ 10.00</u>	<u>RCW 46.68.070</u>
Reflectivity	\$ 2.00	RCW 46.68.070
Replacement	\$ 10.00	RCW 46.68.070
<u>Original issue, motorcycle</u>	<u>\$ 4.00</u>	<u>RCW 46.68.070</u>
Replacement, motorcycle	<del>(( \$ 2.00 ))</del> <u>\$ 4.00</u>	RCW 46.68.070
Original issue, moped	\$ 1.50	RCW 46.68.070

(b) A license plate retention fee, as required under RCW 46.16A.200(10)~~((a)(iii))~~ (c), of twenty dollars if the owner wishes to retain the current license plate number upon license plate replacement, unless the owner or type of vehicle is exempt from payment. The twenty dollar fee must be deposited in the multimodal transportation account created in RCW 47.66.070.

(c) A ten dollar license plate transfer fee, as required under RCW 46.16A.200(8)(a), when transferring standard issue license plates from one vehicle to another, unless the owner or type of vehicle is exempt from payment. The ten dollar license plate transfer fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

(d) Former prisoner of war license plates, as described in RCW 46.18.235, may be transferred to a replacement vehicle upon payment of a five dollar license plate fee, in addition to any other fee required by law.

(2) The department may, upon request, provide license plates that have been used and returned to the department to individuals for nonvehicular use. The department may charge a fee of up to five dollars per license plate to cover costs or recovery for postage and handling. The department may waive the fee for license plates used in educational projects and may, by rule, provide standards for the fee waiver and restrictions on the number of license plates provided to any one person. The fee must be deposited in the motor vehicle fund created in RCW 46.68.070.

Sec. 4. RCW 46.17.375 and 2010 c 161 s 534 are each amended to read as follows:

(1) Before accepting an application for registration for a recreational vehicle, the department, county auditor or other agent, or subagent appointed by the director ~~((shall))~~ must require an

applicant to pay (~~(a three)~~) an eight dollar fee in addition to any other fees and taxes required by law. The state parks support and recreational vehicle sanitary disposal fee must be (~~(deposited in the RV account created)~~) distributed as provided in RCW 46.68.170.

(2) For the purposes of this section, "recreational vehicle" means a camper, motor home, or travel trailer.

**Sec. 5.** RCW 46.68.170 and 2011 c 367 s 715 are each amended to read as follows:

~~(There is)~~ The director shall forward all proceeds from the state parks support and recreational vehicle sanitary disposal fee imposed under RCW 46.17.375 to the state treasurer to be distributed to the following accounts:

(1) Three dollars to the RV account hereby created in the motor vehicle fund the RV account. All moneys hereafter deposited in (~~(said)~~) the account (~~(shall)~~) must be used by the department of transportation for the construction, maintenance, and operation of recreational vehicle sanitary disposal systems at safety rest areas in accordance with the department's highway system plan as prescribed in chapter 47.06 RCW. During the 2009-2011 and 2011-2013 fiscal biennia, the legislature may transfer from the RV account to the motor vehicle fund such amounts as reflect the excess fund balance of the RV account to accomplish the purposes identified in this section; and

(2) Five dollars to the state parks renewal and stewardship account established in RCW 79A.05.215.

**Sec. 6.** RCW 79A.05.215 and 2011 c 320 s 22 are each amended to read as follows:

The state parks renewal and stewardship account is created in the state treasury. Except as otherwise provided in this chapter, all receipts from user fees, concessions, leases, donations collected under RCW 46.16A.090(3), and other state park-based activities (~~(shall)~~) must be deposited into the account. In addition, five dollars of the fee established in RCW 46.17.375 must be deposited into the account as provided in RCW 46.68.170(2) and may be used by the commission only for the operation and maintenance of state parks that provide access and overnight accommodations to recreational vehicles. The proceeds from the recreation access pass account created in RCW 79A.80.090 must be used for the purpose of operating and maintaining state parks. Except as provided otherwise in this section, expenditures from the account may be used for operating state parks, developing and renovating park facilities, undertaking deferred maintenance, enhancing park stewardship, and other state park purposes. Expenditures from the account may be made only after appropriation by the legislature.

**Sec. 7.** RCW 46.20.293 and 2007 c 424 s 1 are each amended to read as follows:

The department is authorized to provide juvenile courts with the department's record of traffic charges compiled under RCW 46.52.101 and 13.50.200, against any minor upon the request of any state juvenile court or duly authorized officer of any juvenile court of this state. Further, the department is authorized to provide any juvenile court with any requested service which the department can reasonably perform which is not inconsistent with its legal authority which substantially aids juvenile courts in handling traffic cases and which promotes highway safety.

The department is authorized to furnish to the parent, parents, or guardian of any person under eighteen years of age who is not emancipated from such parent, parents, or guardian, the department records of traffic charges compiled against the person and shall collect for the copy a fee of (~~(ten)~~) thirteen dollars, fifty percent of which must be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038.

**Sec. 8.** RCW 46.29.050 and 2010 c 8 s 9028 are each amended to read as follows:

(1) The department shall upon request furnish any person or his or her attorney a certified abstract of his or her driving record, which

abstract shall include enumeration of any motor vehicle accidents in which such person has been involved. Such abstract shall (a) indicate the total number of vehicles involved, whether the vehicles were legally parked or moving, and whether the vehicles were occupied at the time of the accident; and (b) contain reference to any convictions of the person for violation of the motor vehicle laws as reported to the department, reference to any findings that the person has committed a traffic infraction which have been reported to the department, and a record of any vehicles registered in the name of the person. The department shall collect for each abstract the sum of (~~(ten)~~) thirteen dollars, fifty percent of which shall be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038.

(2) The department shall upon request furnish any person who may have been injured in person or property by any motor vehicle, with an abstract of all information of record in the department pertaining to the evidence of the ability of any driver or owner of any motor vehicle to respond in damages. The department shall collect for each abstract the sum of (~~(ten)~~) thirteen dollars, fifty percent of which shall be deposited in the highway safety fund and fifty percent of which must be deposited according to RCW 46.68.038.

**Sec. 9.** RCW 46.52.130 and 2010 c 253 s 1 are each amended to read as follows:

Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section.

(1) **Contents of abstract of driving record.** An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

- (i) The total number of vehicles involved;
- (ii) Whether the vehicles were legally parked or moving;
- (iii) Whether the vehicles were occupied at the time of the accident; and

(iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(ii) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: (A) The

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employee or prospective employee that authorizes the release of the record; and (B) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(iii) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agent:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agent, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agent, for underwriting purposes relating to the operation of noncommercial

motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(v) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or treatment agency approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **City attorneys and county prosecuting attorneys.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys or county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031 for employment and risk management purposes.

(i) **Superintendent of public instruction.** An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(4) **Fee.** The director shall collect a ~~((ten))~~ thirteen dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to RCW 46.68.038.

(5) **Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

**Sec. 10.** RCW 46.70.061 and 2002 c 352 s 23 are each amended to read as follows:

(1) The annual fees for original licenses issued for twelve consecutive months from the date of issuance under this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: ~~((Seven))~~ Nine hundred ~~((fifty))~~ seventy-five dollars;

(b) Vehicle dealers, each subagency, and temporary subagency: One hundred dollars;

(c) Vehicle manufacturers: Five hundred dollars.

(2) The annual fee for renewal of any license issued pursuant to this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: ~~((Two))~~ Three hundred ~~((fifty))~~ twenty-five dollars;

(b) Vehicle dealer, each and every subagency: Twenty-five dollars;

(c) Vehicle manufacturers: Two hundred fifty dollars.

If any licensee fails or neglects to apply for such renewal within thirty days after the expiration of the license, or assigned renewal date under a staggered licensing system, the license shall be declared canceled by the director, in which case the licensee will be required to apply for an original license and pay the fee required for the original license.

(3) The fee for the transfer to another location of any license classification issued pursuant to this chapter shall be twenty-five dollars.

(4) The fee for vehicle dealer license plates and manufacturer license plates shall be the amount required by law for vehicle license plates exclusive of excise tax and gross weight and tonnage fees.

(5) All fees collected under this chapter shall be deposited in the state treasury and credited to the motor vehicle fund.

(6) The fees prescribed in this section are in addition to any excise taxes imposed by chapter 82.44 RCW.

**Sec. 11.** RCW 46.70.180 and 2010 c 161 s 1136 are each amended to read as follows:

Each of the following acts or practices is unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2)(a)(i) To incorporate within the terms of any purchase and sale or lease agreement any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price or capitalized cost of a vehicle an amount for licensing or transfer of title of that vehicle which is not

actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(ii) However, an amount not to exceed ~~((the applicable amount provided in (iii)(A) and (B) of this subsection (2)(a)))~~ one hundred fifty dollars per vehicle sale or lease may be charged by a dealer to recover administrative costs for collecting motor vehicle excise taxes, licensing and registration fees and other agency fees, verifying and clearing titles, transferring titles, perfecting, releasing, or satisfying liens or other security interests, and other administrative and documentary services rendered by a dealer in connection with the sale or lease of a vehicle and in carrying out the requirements of this chapter or any other provisions of state law.

((iii) A dealer may charge under (a)(ii) of this subsection:

(A) As of July 26, 2009, through June 30, 2014, an amount not to exceed one hundred fifty dollars; and

(B) As of July 1, 2014, an amount not to exceed fifty dollars.)

(b) A dealer may charge the documentary service fee in (a) of this subsection under the following conditions:

(i) The documentary service fee is disclosed in writing to a prospective purchaser or lessee before the execution of a purchase and sale or lease agreement;

(ii) The dealer discloses to the purchaser or lessee in writing that the documentary service fee is a negotiable fee. The disclosure must be written in a typeface that is at least as large as the typeface used in the standard text of the document that contains the disclosure and that is bold faced, capitalized, underlined, or otherwise set out from the surrounding material so as to be conspicuous. The dealer shall not represent to the purchaser or lessee that the fee or charge is required by the state to be paid by either the dealer or prospective purchaser or lessee;

(iii) The documentary service fee is separately designated from the selling price or capitalized cost of the vehicle and from any other taxes, fees, or charges; and

(iv) Dealers disclose in any advertisement that a documentary service fee in an amount ~~((provided in (iv)(A) and (B) of this subsection (2)(b)))~~ up to one hundred fifty dollars may be added to the sale price or the capitalized cost(=

~~((A) As of July 26, 2009, through June 30, 2014, an amount up to one hundred fifty dollars; and~~

~~((B) As of July 1, 2014, an amount up to fifty dollars)).~~

For the purposes of this subsection (2), the term "documentary service fee" means the optional amount charged by a dealer to provide the services specified in (a) of this subsection.

3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold or leased to a person for a consideration and upon further consideration that the purchaser or lessee agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser or lessee being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Entering into a written contract, written purchase order or agreement, retail installment sales agreement, note and security agreement, or written lease agreement, hereinafter collectively referred to as contract or lease, signed by the prospective buyer or lessee of a vehicle, which:

(a) Is subject to any conditions or the dealer's or his or her authorized representative's future acceptance, and the dealer fails or refuses within four calendar days, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer or lessee to inform the buyer or lessee either: (i) That the dealer unconditionally accepts the contract or lease, having satisfied, removed, or waived all conditions to acceptance or performance, including, but not limited to, financing, assignment, or lease approval; or (ii) that the dealer rejects the contract or lease, thereby

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automatically voiding the contract or lease, as long as such voiding does not negate commercially reasonable contract or lease provisions pertaining to the return of the subject vehicle and any physical damage, excessive mileage after the demand for return of the vehicle, and attorneys' fees authorized by law, and tenders the refund of any initial payment or security made or given by the buyer or lessee, including, but not limited to, any down payment, and tenders return of the trade-in vehicle, key, other trade-in, or certificate of title to a trade-in. Tender may be conditioned on return of the subject vehicle if previously delivered to the buyer or lessee.

The provisions of this subsection (4)(a) do not impair, prejudice, or abrogate the rights of a dealer to assert a claim against the buyer or lessee for misrepresentation or breach of contract and to exercise all remedies available at law or in equity, including those under chapter 62A.9A RCW, if the dealer, bank, or other lender or leasing company discovers that approval of the contract or financing or approval of the lease was based upon material misrepresentations made by the buyer or lessee, including, but not limited to, misrepresentations regarding income, employment, or debt of the buyer or lessee, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation. A dealer shall not be in violation of this subsection (4)(a) if the buyer or lessee made a material misrepresentation to the dealer, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation.

When a dealer informs a buyer or lessee under this subsection (4)(a) regarding the unconditional acceptance or rejection of the contract, lease, or financing by an electronic mail message, the dealer must also transmit the communication by any additional means;

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer or lessee as part of the purchase price or lease, for any reason except:

(i) Failure to disclose that the vehicle's certificate of title has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.540 and 46.12.560; or

(ii) Substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means (A) a discrepancy between the mileage reflected on the vehicle's odometer and the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesperson to refuse to furnish, upon request of a prospective purchaser or lessee, for vehicles previously registered to a business or governmental entity, the name and address of the business or governmental entity.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle. However, a dealer may issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) For a dealer, salesperson, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser or lessee prior to the delivery of the bargained-for vehicle, to commingle the "on deposit" funds with assets of the dealer, salesperson, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser or lessee has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser or lessee, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales or lease agreement signed by the seller and buyer or lessee.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, purchase moneys or funds that have been deposited into or withdrawn out of any account controlled or used by any buyer's agent, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle.

(12) For a buyer's agent, acting directly or through a subsidiary, to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle. In addition, it is unlawful for any buyer's agent to engage in any of the following acts on behalf of or in the name of the consumer:

(a) Receiving or paying any purchase moneys or funds into or out of any account controlled or used by any buyer's agent;

(b) Signing any vehicle purchase orders, sales contracts, leases, odometer statements, or title documents, or having the name of the buyer's agent appear on the vehicle purchase order, sales contract, lease, or title; or

(c) Signing any other documentation relating to the purchase, sale, lease, or transfer of any new motor vehicle.

It is unlawful for a buyer's agent to use a power of attorney obtained from the consumer to accomplish or effect the purchase, sale, lease, or transfer of ownership documents of any new motor vehicle by any means which would otherwise be prohibited under (a) through (c) of this subsection. However, the buyer's agent may use a power of attorney for physical delivery of motor vehicle license plates to the consumer.

Further, it is unlawful for a buyer's agent to engage in any false, deceptive, or misleading advertising, disseminated in any manner whatsoever, including but not limited to making any claim or statement that the buyer's agent offers, obtains, or guarantees the lowest price on any motor vehicle or words to similar effect.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW. This subsection also applies to leased vehicles. In addition, it is unlawful for any buyer's agent to fail to have a written agreement with the customer that: (a) Sets forth the terms of the parties' agreement; (b) discloses to the customer the total amount of any fees or other compensation being paid by the customer to the buyer's agent for the agent's services; and (c) further discloses whether the fee or any portion of the fee is refundable.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.93 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his or her capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he or she is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) the cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith;

(c) Encourage, aid, abet, or teach a vehicle dealer to sell or lease vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale or lease of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser or lessee of any new or unused vehicle that has been sold or leased, distributed for sale or lease, or transferred into this state for resale or lease by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

(16) To knowingly and intentionally engage in collusion with a registered owner of a vehicle to repossess and return or resell the vehicle to the registered owner in an attempt to avoid a suspended license impound under chapter 46.55 RCW. However, compliance with chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise disposing of the vehicle, including providing redemption rights to the debtor, is not a violation of this section.

(17)(a) For a dealer to enter into a new motor vehicle sales contract without disclosing in writing to a buyer of the new motor vehicle, or to a dealer in the case of an unregistered motor vehicle, any known damage and repair to the new motor vehicle if the damage exceeds five percent of the manufacturer's suggested retail price as calculated at the dealer's authorized warranty rate for labor and parts, or one thousand dollars, whichever amount is greater. A manufacturer or new motor vehicle dealer is not required to disclose to a dealer or buyer that glass, tires, bumpers, or cosmetic parts of a new motor vehicle were damaged at any time if the damaged item has been replaced with original or comparable equipment. A replaced part is not part of the cumulative damage required to be disclosed under this subsection.

(b) A manufacturer is required to provide the same disclosure to a dealer of any known damage or repair as required in (a) of this subsection.

(c) If disclosure of any known damage or repair is not required under this section, a buyer may not revoke or rescind a sales contract due to the fact that the new motor vehicle was damaged and repaired before completion of the sale.

(d) As used in this section:

(i) "Cosmetic parts" means parts that are attached by and can be replaced in total through the use of screws, bolts, or other fasteners without the use of welding or thermal cutting, and includes windshields, bumpers, hoods, or trim panels.

(ii) "Manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer, and includes the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer that is not included within the retail price suggested by the manufacturer for the new motor vehicle.

**NEW SECTION. Sec. 12.** A new section is added to chapter 46.68 RCW to read as follows:

The public transportation grant program account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for grants to aid transit authorities with operations.

**NEW SECTION. Sec. 13.** A new section is added to chapter 46.17 RCW to read as follows:

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(1) Before accepting an application for an annual vehicle registration renewal for an electric vehicle that uses propulsion units powered solely by electricity, the department, county auditor or other agent, or subagent appointed by the director must require the applicant to pay a one hundred dollar fee in addition to any other fees and taxes required by law. The one hundred dollar fee is due only at the time of annual registration renewal.

(2) This section only applies to:

(a) A vehicle that is designed to have the capability to drive at a speed of more than thirty-five miles per hour; and

(b) An annual vehicle registration renewal that is due on or after February 1, 2013.

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

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

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

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

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

**NEW SECTION. Sec. 14.** Section 13 of this act expires on the effective date of legislation enacted by the legislature that imposes a vehicle miles traveled fee or tax.

**NEW SECTION. Sec. 15.** The department of licensing must provide written notice of the expiration date of section 13 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

**Sec. 16.** RCW 46.10.420 and 2010 c 161 s 231 are each amended to read as follows:

(1) Each dealer of snowmobiles in this state shall obtain a snowmobile dealer license from the department in a manner prescribed by the department. Upon receipt of an application for a snowmobile dealer's license and the fee provided in subsection (2) of this section, the dealer is licensed and a snowmobile dealer license number must be assigned.

(2) The annual license fee for a snowmobile dealer is twenty-five dollars, which covers all of the snowmobiles offered by a dealer for sale and not rented on a regular, commercial basis. Snowmobiles rented on a regular commercial basis by a snowmobile dealer must be registered separately under RCW 46.10.310, 46.10.400, 46.10.430, and 46.10.440.

(3) Upon the issuance of a snowmobile dealer license, a snowmobile dealer may purchase, at a cost to be determined by the department, snowmobile dealer license plates of a size and color to be determined by the department. The snowmobile dealer license plates must contain the snowmobile license number assigned to the dealer. Each snowmobile operated by a dealer, dealer representative, or prospective customer for the purposes of demonstration or testing shall display snowmobile dealer license plates in a clearly visible manner.

(4) Only a dealer, dealer representative, or prospective customer may display a snowmobile dealer plate, and only a dealer, dealer representative, or prospective customer may use a snowmobile dealer's license plate for the purposes described in subsection (3) of this section.

(5) Snowmobile dealer licenses are nontransferable.

(6) It is unlawful for any snowmobile dealer to sell a snowmobile at wholesale or retail, or to test or demonstrate any snowmobile, within the state, unless the dealer has a snowmobile dealer license as required under this section.

(7) When a snowmobile is sold by a snowmobile dealer, the dealer:

(a) Shall apply for licensing in the purchaser's name (~~within fifteen days following the sale~~) as provided by rules adopted by the department; and

(b) May issue a temporary license as provided by rules adopted by the department.

**Sec. 17.** RCW 46.12.675 and 2010 c 161 s 316 are each amended to read as follows:

(1) A security interest in a vehicle other than one held as inventory by a manufacturer or a dealer and for which a certificate of title is required is perfected only by:

(a) Complying with the requirements of RCW 46.12.660 or this section;

(b) Receipt by the department, county auditor or other agent, or subagent appointed by the director of:

(i) The existing certificate of title, if any;

(ii) An application for a certificate of title containing the name and address of the secured party; and

(iii) Payment of the required fees.

(2) A security interest is perfected when it is created if the secured party's name and address appear on the most recently issued certificate of title or, if not, it is created when the department, county auditor or other agent, or subagent appointed by the director receives the certificate of title or an application for a certificate of title and the fees required in subsection (1) of this section.

(3) If a vehicle is subject to a security interest when brought into this state, perfection of the security interest is determined by the law of the jurisdiction where the vehicle was when the security interest was attached, subject to the following:

(a) The security interest continues perfected in this state if the name of the secured party is shown on the existing certificate of title issued by that jurisdiction. The name of the secured party must be shown on the certificate of title issued for the vehicle by this state. The security interest continues perfected in this state when the department issues the certificate of title.

(b) If the security interest was not perfected under the law of the jurisdiction where the vehicle was when the security interest was attached, it may be perfected in this state. Perfection begins when the department receives the information and fees required in subsection (1) of this section.

(4)(a) After a certificate of title has been issued, the registered owner or secured party must apply to the department, county auditor or other agent, or subagent appointed by the director for a new certificate of title when a security interest is granted on a vehicle. Within ten days after creating a security agreement, the registered owner or secured party must submit:

(i) An application for a certificate of title;

(ii) The certificate of title last issued for the vehicle, or other documentation required by the department; and

(iii) The fee required in RCW 46.17.100.

(b) If satisfied that a certificate of title should be reissued, the department shall change the vehicle record and issue a new certificate of title to the secured party.

(5) A secured party shall release the security interest when the conditions within the security agreement have been met and there is no further secured obligation. The secured party must either:

(a) Assign the certificate of title to the registered owner or the registered owner's designee and send the certificate of title to the

department, county auditor or other agent, or subagent appointed by the director with the fee required in RCW 46.17.100; or

(b) Assign the certificate of title to the person acquiring the vehicle from the registered owner with the registered owner's release of interest.

(6) The department shall issue a new certificate of title to the registered owner when the department receives the release of interest and required fees as provided in subsection (5)(a) of this section.

(7) A secured party is liable for one hundred dollars payable to the registered owner or person acquiring the vehicle from the registered owner when:

(a) The secured party fails to either assign the certificate of title to the registered owner or to the person acquiring the vehicle from the registered owner or apply for a new certificate of title within ten days after proper demand; and

(b) The failure of the secured party to act as described in (a) of this subsection results in a loss to the registered owner or person acquiring the vehicle from the registered owner.

**Sec. 18.** RCW 46.16A.320 and 2010 c 161 s 425 are each amended to read as follows:

(1)(a) A vehicle owner may operate an unregistered vehicle on public highways under the authority of a trip permit issued by this state. For purposes of trip permits, a vehicle is considered unregistered if:

(i) Under reciprocal relations with another jurisdiction, the owner would be required to register the vehicle in this state;

(ii) Not registered when registration is required under this chapter;

(iii) The license tabs have expired; or

~~((iii))~~ (iv) The current gross weight license is insufficient for the load being carried. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles or forty thousand pounds for a single unit vehicle with three or more axles.

(b) Trip permits are required to move mobile homes or park model trailers and may only be issued if property taxes are paid in full.

(2) Trip permits may not be:

(a) Issued to vehicles registered under RCW 46.16A.455(5) in lieu of further registration within the same registration year; or

(b) Used for commercial motor vehicles owned by a motor carrier subject to RCW 46.32.080 if the motor carrier's department of transportation number has been placed out of service by the

Washington state patrol. A violation of or a failure to comply with this subsection is a gross misdemeanor, subject to a minimum monetary penalty of two thousand five hundred dollars for the first violation and five thousand dollars for each subsequent violation.

(3)(a) Each trip permit authorizes the operation of a single vehicle at the maximum legal weight limit for the vehicle for a period of three consecutive days beginning with the day of first use. No more than three trip permits may be used for any one vehicle in any thirty consecutive day period. No more than two trip permits may be used for any one recreational vehicle, as defined in RCW 43.22.335, in a one-year period. Every trip permit must:

(i) Identify the vehicle for which it is issued;

(ii) Be completed in its entirety;

(iii) Be signed by the operator before operation of the vehicle on the public highways of this state;

(iv) Not be altered or corrected. Altering or correcting data on the trip permit invalidates the trip permit; and

(v) Be displayed on the vehicle for which it is issued as required by the department.

(b) Vehicles operating under the authority of trip permits are subject to all laws, rules, and regulations affecting the operation of similar vehicles in this state.

(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of each permit for four years.

(5) Trip permits may be obtained from field offices of the department of transportation, department of licensing, county auditors or other agents, and subagents appointed by the department for the fee provided in RCW 46.17.400(1)(h). Exchanges, credits, or refunds may not be given for trip permits after they have been purchased.

(6) Except as provided in subsection (2)(b) of this section, a violation of or a failure to comply with this section is a gross misdemeanor.

(7) The department may adopt rules necessary to administer this section.

**Sec. 19.** RCW 88.02.640 and 2011 c 326 s 5, 2011 c 171 s 134, and 2011 c 169 s 1 are each reenacted and amended to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge the following vessel fees and surcharge:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund
(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsection (3) of this section	Subsection (3) of this section
(c) Derelict vessel removal surcharge	\$1.00	Subsection (4) of this section	Subsection (4) of this section
(d) Duplicate certificate of title	\$1.25	RCW 88.02.530(1)(c)	General fund
(e) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
<del>((e))</del> (f) Filing	RCW 46.17.005	RCW <del>((46.17.005))</del> 88.02.560(2)	RCW 46.68.400
<del>((f))</del> (g) License plate technology	RCW 46.17.015	RCW <del>((46.17.015))</del> 88.02.560(2)	RCW 46.68.370
<del>((g))</del> (h) License service	RCW 46.17.025	RCW <del>((46.17.025))</del> 88.02.560(2)	RCW 46.68.220
<del>((h))</del> (i) Nonresident vessel permit	\$25.00	RCW 88.02.620(3)	Subsection (5) of this section
<del>((i))</del> (j) Quick title service	\$50.00	RCW 88.02.540(3)	Subsection (7) of this section

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<del>((k))</del> <u>(k)</u> Registration	\$10.50	RCW 88.02.560(2)	RCW 88.02.650
<del>((l))</del> <u>(l)</u> Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
<del>((m))</del> <u>(m)</u> Title application	\$5.00	RCW 88.02.515	General fund
<del>((n))</del> <u>(n)</u> Transfer	\$1.00	RCW 88.02.560(7)	General fund
<del>((o))</del> <u>(o)</u> Vessel visitor permit	\$30.00	RCW 88.02.610(3)	Subsection (6) of this section

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3)(a) The derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(i) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;

(ii) One dollar must be deposited into the aquatic algae control account created in RCW 43.21A.667;

(iii) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and

(iv) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(b) If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under subsection (5) of this section reaches one million dollars as of March 1st of any year, the collection of the two dollars of the derelict vessel and invasive species removal fee that is deposited into the derelict vessel removal account as authorized in (a)(iv) of this subsection must be suspended for the following fiscal year.

(4) Until January 1, 2014, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge:

(a) Is to address the significant backlog of derelict vessels accumulated in Washington state waters that pose a threat to the health and safety of the people and to the environment;

(b) Is to be used only for the removal of vessels that are less than seventy-five feet in length; and

(c) Must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing the identification document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7)(a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent or subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(b) For the purposes of this subsection, "quick title" has the same meaning as in RCW 88.02.540.

NEW SECTION. Sec. 20. Section 4 of this act applies to vehicle registrations that are due or become due on or after October 1, 2012.

NEW SECTION. Sec. 21. Sections 1 through 15 of this act take effect October 1, 2012.

NEW SECTION. Sec. 22. Section 12 of this act expires July 1, 2015."

On page 1, line 1 of the title, after "revenue;" strike the remainder of the title and insert "amending RCW 46.17.100, 46.17.140, 46.17.200, 46.17.375, 46.68.170, 79A.05.215, 46.20.293, 46.29.050, 46.52.130, 46.70.061, 46.70.180, 46.10.420, 46.12.675, and 46.16A.320; reenacting and amending RCW 88.02.640; adding a new section to chapter 46.68 RCW; adding a new section to chapter 46.17 RCW; creating new sections; providing an effective date; providing an expiration date; and providing a contingent expiration date."

And the bill do pass as recommended by the conference committee.

Signed by Senators Eide, Haugen and King; Representatives Armstrong, Clibborn and Liias.

MOTION

Senator Haugen moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6455 be adopted.

POINT OF ORDER

Senator Padden: "Specifically in sections 4, 5 and 6 of the conference committee striker includes an RV surcharge for the funding of Start parks, it was an Engrossed Second Substitute House Bill No. 2373. There are at least three grounds of objections for the point of order: one is scope and object; two is not within the scope and object of the bill pursuant to Article II Section 19 of the state constitution; and three I would ask for a ruling on 1053 that this is a tax since there's really is not a nexus between the fees and RVs owners using parks. It's estimated that only twenty percent of the RVs actually use the state park system. The language makes one hundred percent pay for the benefit of the small minority. There simply is not the nexus necessary to establish this as a fee."

Senator Haugen spoke against the point of order.

POINT OF ORDER

Senator Benton: “Thank you Mr. President, I to rise to a point of order on this bill and ask the same question except in terms of reference to a different section of the bill. A portion of this bill raises abstract fees for the Department of Licensing. This narrow fee increase is intended to fund relatively broad swaths of state government and is absolutely unrelated to the fee transaction. That is the increase has no bearing on the increase on cost borne by the department to gather, store and sell the date. As a matter of fact neither...”

#### REMARKS BY THE PRESIDENT

President Owen: “Senator Benton, you’re making arguments. Just raise your point of order please. Then arguments following...”

Senator Benton: “I’ll withdraw my objection.”

#### REPLY BY THE PRESIDENT

President Owen: “But your point of order is? As to the number of votes or the scope and object?”

Senator Benton: “Yeah, concerning Initiative 1053. My point of order is to the question, how many votes will it take to pass this bill? I believe it requires a two-thirds vote Mr. president.”

President Owen: “Senator Benton, rises to the point of order as to the number of votes necessary to pass based on the stated section of the bill. Senator Benton, please restate the section.

Senator Benton: “Thank you, as to the abstract fee increases section of the bill. As a matter of fact, the Department of Licensing did not request the legislation to increase this fee, either in 2007 or this year, and the bill freely admits that the dollars raised go towards other things. Based on that, I believe Mr. President that this is in fact a tax not a fee and should require a two-thirds vote of the senate for passage.”

Senator Haugen spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 6455 was deferred and the bill held its place on the conference calendar.

Senator Prentice assumed the chair.

#### MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SENATE BILL NO. 5159,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5188,  
SUBSTITUTE SENATE BILL NO. 5217,  
SUBSTITUTE SENATE BILL NO. 5246,  
SECOND SUBSTITUTE SENATE BILL NO. 5343,  
ENGROSSED SENATE BILL NO. 5661,  
SUBSTITUTE SENATE BILL NO. 5982,  
SUBSTITUTE SENATE BILL NO. 5995,  
SUBSTITUTE SENATE BILL NO. 5997,

SUBSTITUTE SENATE BILL NO. 6041,  
SUBSTITUTE SENATE BILL NO. 6044,  
SUBSTITUTE SENATE BILL NO. 6081,  
SENATE BILL NO. 6082,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6103,  
SUBSTITUTE SENATE BILL NO. 6105,  
SUBSTITUTE SENATE BILL NO. 6116,  
SENATE BILL NO. 6134,  
SUBSTITUTE SENATE BILL NO. 6138,  
SECOND SUBSTITUTE SENATE BILL NO. 6140,  
ENGROSSED SENATE BILL NO. 6155,  
ENGROSSED SENATE BILL NO. 6215,  
SENATE BILL NO. 6223,  
SUBSTITUTE SENATE BILL NO. 6226,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6237,  
SUBSTITUTE SENATE BILL NO. 6240,  
SUBSTITUTE SENATE BILL NO. 6242,  
SUBSTITUTE SENATE BILL NO. 6253,  
ENGROSSED SENATE BILL NO. 6254,  
SENATE BILL NO. 6256,  
ENGROSSED SENATE BILL NO. 6257,  
SECOND SUBSTITUTE SENATE BILL NO. 6263,  
SUBSTITUTE SENATE BILL NO. 6328,  
SUBSTITUTE SENATE BILL NO. 6354,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6355,  
SUBSTITUTE SENATE BILL NO. 6359,  
SUBSTITUTE SENATE BILL NO. 6384,  
SUBSTITUTE SENATE BILL NO. 6386,  
SUBSTITUTE SENATE BILL NO. 6403,  
SENATE BILL NO. 6412,  
SUBSTITUTE SENATE BILL NO. 6414,  
SUBSTITUTE SENATE BILL NO. 6444,  
SUBSTITUTE SENATE BILL NO. 6468,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6486,  
SUBSTITUTE SENATE BILL NO. 6493,  
SUBSTITUTE SENATE BILL NO. 6508,  
SENATE BILL NO. 6545,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6555,  
SUBSTITUTE SENATE BILL NO. 6581,  
ENGROSSED SENATE BILL NO. 6608,  
SENATE JOINT RESOLUTION NO. 8223.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The Speaker has signed:

SUBSTITUTE HOUSE BILL NO. 1057,  
SUBSTITUTE HOUSE BILL NO. 1552,  
SUBSTITUTE HOUSE BILL NO. 1559,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1627,  
ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1860,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1983,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2048,  
SUBSTITUTE HOUSE BILL NO. 2177,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2197,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2233,  
SUBSTITUTE HOUSE BILL NO. 2252,  
SUBSTITUTE HOUSE BILL NO. 2254,  
SUBSTITUTE HOUSE BILL NO. 2261,  
SUBSTITUTE HOUSE BILL NO. 2263,

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2264,  
HOUSE BILL NO. 2308,  
SUBSTITUTE HOUSE BILL NO. 2313,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2314,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2319,  
SUBSTITUTE HOUSE BILL NO. 2326,  
HOUSE BILL NO. 2329,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2337,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2347,  
SUBSTITUTE HOUSE BILL NO. 2349,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2361,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2363,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2373,  
SECOND SUBSTITUTE HOUSE BILL NO. 2452,  
HOUSE BILL NO. 2482,  
HOUSE BILL NO. 2485,  
HOUSE BILL NO. 2499,  
HOUSE BILL NO. 2535,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2567,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2570,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2582,  
THIRD SUBSTITUTE HOUSE BILL NO. 2585,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2586,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2614,  
SUBSTITUTE HOUSE BILL NO. 2617,  
ENGROSSED HOUSE BILL NO. 2620,  
SUBSTITUTE HOUSE BILL NO. 2640,  
SUBSTITUTE HOUSE BILL NO. 2673,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2692,  
ENGROSSED HOUSE BILL NO. 2771,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2799.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:  
The House receded from its amendment to SUBSTITUTE SENATE BILL NO. 6494 and passed the bill without the House amendment.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:  
The House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1398 and passed the bill as amended by the Senate.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:  
The House has passed:  
SENATE BILL NO. 6159,  
SUBSTITUTE SENATE BILL NO. 6600,  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:  
The House has passed SUBSTITUTE HOUSE BILL NO. 2357.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 2139 by House Committee on Ways & Means (originally sponsored by Representatives Cody and Hunter)

AN ACT Relating to the establishment of new regional support network boundaries; and amending RCW 71.24.360.

SHB 2357 by House Committee on Ways & Means (originally sponsored by Representatives Darneille, Kirby, Ladenburg, Green, Jinkins, Kagi and Tharinger)

AN ACT Relating to sales and use tax for chemical dependency, mental health treatment, and therapeutic courts; and amending RCW 82.14.460.

MOTION

On motion of Senator Eide, the rules were suspended and without objection Substitute House Bill No. 2139 and Substitute House Bill No. 2357 were placed on the second reading calendar.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2149, by House Committee on Ways & Means (originally sponsored by Representatives Eddy and Kenney)

Concerning personal property tax assessment administration, authorizing waiver of penalties and interest under specified circumstances.

The measure was read the second time.

MOTION

On motion of Senator Murray, the rules were suspended, Substitute House Bill No. 2149 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 2149.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2149 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

SUBSTITUTE HOUSE BILL NO. 2149, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2443, by House Committee on Transportation (originally sponsored by Representatives Goodman, Pedersen, Hurst, Kelley, Blake, Fitzgibbon, Ormsby, Hasegawa and Miloscia)

Increasing accountability of persons who drive impaired.

The measure was read the second time.

#### MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 2.28.175 and 2011 c 293 s 10 are each amended to read as follows:

(1) Counties may establish and operate DUI courts. Municipalities may enter into cooperative agreements with counties that have DUI courts to provide DUI court services.

(2) For the purposes of this section, "DUI court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism of impaired driving among nonviolent, alcohol abusing offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic testing for alcohol use and, if applicable, drug use; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a DUI court program must first:

(i) Exhaust all federal funding that is available to support the operations of its DUI court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for DUI court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for DUI court operations and associated services. However, until June 30, 2014,

no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a DUI court established as of January 1, 2011.

(b) Any (~~county~~) jurisdiction that establishes a DUI court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The DUI court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from alcohol treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030, vehicular homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or an equivalent out-of-state offense; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) That is vehicular homicide or vehicular assault;

(D) During which the defendant used a firearm; or

(E) During which the defendant caused substantial or great bodily harm or death to another person.

**Sec. 2.** RCW 9.94A.475 and 2002 c 290 s 15 are each amended to read as follows:

Any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes shall be made and retained as public records if the felony crime involves:

(1) Any violent offense as defined in this chapter;

(2) Any most serious offense as defined in this chapter;

(3) Any felony with a deadly weapon special verdict under RCW (~~(9.94A.602))~~ 9.94A.825;

(4) Any felony with any deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both; (~~and/or~~)

(5) The felony crimes of possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony; or

(6) The felony crime of driving a motor vehicle while under the influence of intoxicating liquor or any drug as defined in RCW 46.61.502, and felony physical control of a motor vehicle while under the influence of intoxicating liquor or any drug as defined in RCW 46.61.504.

**Sec. 3.** RCW 9.94A.640 and 2006 c 73 s 8 are each amended to read as follows:

(1) Every offender who has been discharged under RCW 9.94A.637 may apply to the sentencing court for a vacation of the offender's record of conviction. If the court finds the offender meets the tests prescribed in subsection (2) of this section, the court may clear the record of conviction by: (a) Permitting the offender to withdraw the offender's plea of guilty and to enter a plea of not guilty; or (b) if the offender has been convicted after a plea of not guilty, by the court setting aside the verdict of guilty; and (c) by the court dismissing the information or indictment against the offender.

(2) An offender may not have the record of conviction cleared if: (a) There are any criminal charges against the offender pending in any court of this state or another state, or in any federal court; (b) the offense was a violent offense as defined in RCW 9.94A.030; (c) the offense was a crime against persons as defined in RCW 43.43.830; (d) the offender has been convicted of a new crime in this state, another state, or federal court since the date of the offender's discharge under RCW 9.94A.637; (e) the offense is a class B felony and less than ten years have passed since the date the applicant was discharged under RCW 9.94A.637; (f) the offense was a class C felony, other than a class C felony described in RCW 46.61.502(6) or 46.61.504(6), and less than five years have passed since the date the applicant was discharged under RCW 9.94A.637; or (g) the

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offense was a class C felony described in RCW 46.61.502(6) or 46.61.504(6) ~~((and less than ten years have passed since the applicant was discharged under RCW 9.94A.637)).~~

(3) Once the court vacates a record of conviction under subsection (1) of this section, the fact that the offender has been convicted of the offense shall not be included in the offender's criminal history for purposes of determining a sentence in any subsequent conviction, and the offender shall be released from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment applications, an offender whose conviction has been vacated may state that the offender has never been convicted of that crime. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

**Sec. 4.** RCW 9.95.210 and 2011 1st sp.s. c 40 s 7 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection in granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(b) For a defendant sentenced under RCW 46.61.5055, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension continue upon such conditions and for such time as the court shall designate, not to exceed five years. The court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines. A defendant who has been sentenced, and who then fails to appear for any hearing to address the defendant's compliance with the terms of probation when ordered to do so by the court shall have the term of probation tolled until such time as the defendant makes his or her presence known to the court on the record. Any time before entering an order terminating probation, the court may modify or revoke its order suspending the imposition or execution of the sentence if the defendant violates or fails to carry out any of the conditions of the suspended sentence.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay such fine as may be imposed and court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required; (d) following consideration of the financial condition of the person subject to possible electronic monitoring, to pay for the costs of electronic monitoring if that monitoring was required by the court as a condition of release from custody or as a condition of probation; (e) to contribute to a county or interlocal drug fund; and (f) to make restitution to a public agency for the costs of an emergency response under RCW 38.52.430, and may require bonds for the faithful observance of any and all conditions imposed in the probation.

(3) The superior court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the superior court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the superior court within one year of imposition of the sentence for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the superior court shall hold a restitution hearing and shall enter a restitution order.

(4) In granting probation, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If the probationer has been ordered to make restitution and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made. If the superior court has ordered supervision and restitution has not been made as ordered, the officer shall inform the prosecutor of that violation of the terms of probation not less than three months prior to the termination of the probation period. The secretary of corrections will promulgate rules and regulations for the conduct of the person during the term of probation. For defendants found guilty in district court, like functions as the secretary performs in regard to probation may be performed by probation officers employed for that purpose by the county legislative authority of the county wherein the court is located.

(6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to sentences imposed under this section.

**Sec. 5.** RCW 9.96.060 and 2001 c 140 s 1 are each amended to read as follows:

(1) Every person convicted of a misdemeanor or gross misdemeanor offense who has completed all of the terms of the sentence for the misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the tests prescribed in subsection (2) of this section, the court may in its discretion vacate the record of conviction by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) An applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court;

(b) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

(c) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence), ~~((or))~~ 9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under

RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense;

(d) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses);

(e) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family member or household member against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has previously had a conviction for domestic violence. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

(f) For any offense other than those described in (e) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

(g) The offender has been convicted of a new crime in this state, another state, or federal court since the date of conviction;

(h) The applicant has ever had the record of another conviction vacated; or

(i) The applicant is currently restrained, or has been restrained within five years prior to the vacation application, by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party.

(3) Once the court vacates a record of conviction under subsection (1) of this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under subsection (1) of this section may state that he or she has never been convicted of that crime. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(4) All costs incurred by the court and probation services shall be paid by the person making the motion to vacate the record unless a determination is made pursuant to chapter 10.101 RCW that the person making the motion is indigent, at the time the motion is brought.

(5) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police

agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

**Sec. 6.** RCW 38.52.430 and 1993 c 251 s 2 are each amended to read as follows:

A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; (2) operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; (3) use of a vessel while under the influence of alcohol or drugs, RCW ~~((88.12.100))~~ 79A.60.040; (4) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (5) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

The expense of an emergency response is a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied. Following a conviction of an offense listed in this section, and prior to sentencing, the prosecution may present to the court information setting forth the expenses incurred by the public agency for its emergency response to the incident. Upon a finding by the court that the expenses are reasonable, the court shall order the defendant to reimburse the public agency. The cost reimbursement shall be included in the sentencing order as an additional monetary obligation of the defendant and may not be substituted for any other fine or cost required or allowed by statute. The court may establish a payment schedule for the payment of the cost reimbursement, separate from any payment schedule imposed for other fines and costs.

In no event shall a person's liability under this section for the expense of an emergency response exceed ~~((one))~~ two thousand five hundred dollars for a particular incident.

If more than one public agency makes a claim for payment from an individual for an emergency response to a single incident under the provisions of this section, and the sum of the claims exceeds the amount recovered, the division of the amount recovered shall be determined by an interlocal agreement consistent with the requirements of chapter 39.34 RCW.

**Sec. 7.** 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 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

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

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

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

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if the driver is age twenty-one or over and the test indicates the alcohol concentration of the driver's breath or blood is 0.08 or more, or if the driver is under age twenty-one and the test indicates the alcohol concentration of the driver's breath or blood is 0.02 or more, or if the driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

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

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of felony driving under the influence of intoxicating liquor or drugs under RCW 46.61.502(6), felony physical control of a motor vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6), vehicular homicide as provided in RCW 46.61.520, or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

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

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

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more if the person is age twenty-one or over, or 0.02 or more if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement

officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

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

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section 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 concentration in violation of RCW 46.61.503;

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

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

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

(8) A person receiving notification under subsection (6)(b) of this section may, within 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 if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person was age twenty-one or over at the time of the arrest, or 0.02 or more if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more and was under the age of twenty-one and that the officer complied with the requirements of this section. A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(9) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension,

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

(10)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (7) of this section, other than as a result of a breath or blood test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, 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. 8.** RCW 46.20.385 and 2011 c 293 s 1 are each amended to read as follows:

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(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, or who is otherwise permitted under subsection (8) of this section, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours. However, when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment, the employer exemption does not apply.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055. Beginning with incidents occurring on or after September 1, 2011, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (1)(c)(iii), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. If at any time before the cancellation

goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

(8)(a) Any person licensed under this chapter who is convicted of a violation of RCW 46.61.500 when the charge was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, may submit to the department an application for an ignition interlock driver's license under this section.

(b) A person who does not have any driver's license under this chapter, but who would otherwise be eligible under this section to apply for an ignition interlock license, may submit to the department an application for an ignition interlock license. The department may require the person to take any driver's licensing examination under chapter 46.20 RCW and may require the person to also apply and qualify for a temporary restricted driver's license under RCW 46.20.391.

**Sec. 9.** RCW 46.20.720 and 2011 c 293 s 6 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055 and subject to the exceptions listed in that statute, the court shall order any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to ~~((apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have))~~ comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person. The court shall order any person participating in a deferred prosecution program under RCW 10.05.020 for a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance. The department shall require that a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours. However, when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment, the employer exemption does not apply.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. Subject to the provisions of subsections (4) and (5) of this section, the period of time of the restriction will be no less than:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:

(a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;

(b) Failure to take or pass any required retest; or

(c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

(5) For a person required to install an ignition interlock device pursuant to RCW 46.61.5249(4) or 46.61.500(3), the period of time of the restriction shall be for six months and shall be subject to subsection (4) of this section.

(6) In addition to any other costs associated with the use of an ignition interlock device imposed on the person restricted under this section, the person shall pay an additional fee of twenty dollars per month. Payments must be made directly to the ignition interlock company. The company shall remit the additional twenty dollar fee to the department to be deposited into the ignition interlock device revolving account.

**Sec. 10.** RCW 46.20.745 and 2008 c 282 s 10 are each amended to read as follows:

(1) The ignition interlock device revolving account program is created within the department to assist in covering the monetary costs of installing, removing, and leasing an ignition interlock device, and applicable licensing, for indigent persons who are required under RCW 46.20.385, 46.20.720, and 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person. For purposes of this subsection, "indigent" has the same meaning as in RCW 10.101.010, as determined by the department.

(2) A pilot program is created within the ignition interlock device revolving account program for the purpose of monitoring compliance by persons required to use ignition interlock devices and by ignition interlock companies and vendors.

(3) The department, the state patrol, and the Washington traffic safety commission shall coordinate to establish a compliance pilot program that will target at least one county from eastern Washington and one county from western Washington, as determined by the department, state patrol, and Washington traffic safety commission.

(4) At a minimum, the compliance pilot program shall:

(a) Review the number of ignition interlock devices that are required to be installed in the targeted county and the number of ignition interlock devices actually installed;

(b) Work to identify those persons who are not complying with ignition interlock requirements or are repeatedly violating ignition interlock requirements; and

(c) Identify ways to track compliance and reduce noncompliance.

(5) As part of monitoring compliance, the Washington traffic safety commission shall also track recidivism for violations of RCW 46.61.502 and 46.61.504 by persons required to have an ignition interlock driver's license under RCW 46.20.385 and 46.20.720.

**Sec. 11.** RCW 46.61.500 and 2011 c 293 s 4 and 2011 c 96 s 34 are each reenacted and amended to read as follows:

(1) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a gross misdemeanor punishable by imprisonment for up to three hundred sixty- four days and by a fine of not more than five thousand dollars.

(2)(a) Subject to (b) of this subsection, the license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days.

(b) When a reckless driving conviction is a result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, the department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under an administrative action arising out of the same incident. During any period of suspension, revocation, or denial due to a conviction for reckless driving as the result of a charge originally filed as a violation of RCW 46.61.502 or 46.61.504, any person who has obtained an ignition interlock driver's license under RCW 46.20.385 may continue to drive a motor vehicle pursuant to the provision of the ignition interlock driver's license without obtaining a separate temporary restricted driver's license under RCW 46.20.391.

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(3)(a) Except as provided under (b) of this subsection, a person convicted of reckless driving who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance.

(b) A person convicted of reckless driving shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug or RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug.

**Sec. 12.** RCW 46.61.5055 and 2011 c 293 s 7 and 2011 c 96 s 35 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than three hundred sixty-four days. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an

alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. In lieu of the mandatory minimum term of sixty days electronic home monitoring, the court may order at least an additional four days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of ninety days electronic home monitoring, the court may order at least an additional six days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than three hundred sixty-four days and one hundred twenty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred twenty days of electronic home monitoring, the court may order at least an additional eight days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days of electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has four or more prior offenses within ten years; or

(b) The person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5)(a) The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to ~~((apply for an ignition interlock driver's license from the department and to have))~~ comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) ((The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person apply for an ignition interlock driver's license if the court makes a specific finding in writing that:

(i) The person lives out-of-state and the devices are not reasonably available in the person's local area;

(ii) The person does not operate a vehicle; or

(iii) The person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under chapter 74.20A RCW as noncompliant with a child support order, or is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license.

(e) If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility.

(f)) If the court orders that a person refrain from consuming any alcohol ((and requires the person to apply for an ignition interlock driver's license, and the person states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition interlock driver's license)), the court ((shall)) may order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. ((Alcohol monitoring ordered under this subsection must be for the period of the mandatory license suspension or revocation.)) The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

((g) The period of time for which ignition interlock use is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under (g)(i) of this subsection, a period of five years;

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(iii) For a person who has previously been restricted under (g)(ii) of this subsection, a period of ten years.

(h) Beginning with incidents occurring on or after September 1, 2011, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (5)(h), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3.))

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under

this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-four days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-four days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; ((e))

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522; or

(ix) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program. If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

**Sec. 13.** RCW 46.61.5249 and 2011 c 293 s 5 are each amended to read as follows:

(1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug or exhibits the effects of having inhaled or ingested any chemical,

whether or not a legal substance, for its intoxicating or hallucinatory effects.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Exhibiting the effects of having inhaled or ingested any chemical, whether or not a legal substance, for its intoxicating or hallucinatory effects" means that a person by speech, manner, appearance, behavior, or lack of coordination or otherwise exhibits that he or she has inhaled or ingested a chemical and either:

(i) Is in possession of the canister or container from which the chemical came; or

(ii) Is shown by other evidence to have recently inhaled or ingested a chemical for its intoxicating or hallucinatory effects.

(e) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(4) A person convicted of negligent driving in the first degree who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person.

**Sec. 14.** RCW 46.61.540 and 1975 1st ex.s. c 287 s 5 are each amended to read as follows:

The word "drugs", as used in RCW 46.61.500 through 46.61.535, shall include but not be limited to those drugs and substances regulated by chapters 69.41 and 69.50 RCW and any chemical inhaled or ingested for its intoxicating or hallucinatory effects.

**NEW SECTION. Sec. 15.** A new section is added to chapter 43.43 RCW to read as follows:

(1) As part of the state patrol's authority to provide standards for certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, the state patrol

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shall by rule establish a fee schedule and collect fees from ignition interlock manufacturers, technicians, providers, and persons required under RCW 46.20.385, 46.20.720, and 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person. At a minimum, the fees must be set at a level necessary to support effective performance of the duties identified in this section. The state patrol must report back to the transportation committees of the legislature and the office of financial management by December 1st of each year on the level of the fees that have been adopted and whether those fees are sufficient to cover the cost of performing the duties listed in this section.

(2) Fees collected under this section must be deposited into the highway safety account to be used solely to fund the Washington state patrol impaired driving section projects.

**Sec. 16.** RCW 43.43.395 and 2010 c 268 s 2 are each amended to read as follows:

(1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance. The state patrol may only inspect ignition interlock devices in the vehicles of customers for proper installation and functioning when installation is being done at the vendors' place of business.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual installer is responsible for notifying affected customers of any changes in their service agreement.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

(3)(a) An ignition interlock device must employ fuel cell technology. For the purposes of this subsection, "fuel cell technology" consists of the following electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols.

(b) When reasonably available in the area, as determined by the state patrol, an ignition interlock device must employ technology capable of taking a photo identification of the user giving the breath sample and recording on the photo the time the breath sample was given.

(c) To be certified, an ignition interlock device must:

(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is certified by the international organization of standardization and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The

notarized statement must include the name and signature of the person in charge of the tests under the following statement:

"Two samples of (model name), manufactured by (manufacturer) were tested by (laboratory) certified by the Internal Organization of Standardization. They do meet or exceed all specifications listed in the Federal Register, Volume 71, Number 31 (57 FR 11772), Breath Alcohol Ignition Interlock Devices (BAIID), NHTSA 2005-23470."; and

(ii) Be maintained in accordance with the rules and standards adopted by the state patrol.

**NEW SECTION. Sec. 17.** This act takes effect August 1, 2012."

Senators Kline and Padden spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Transportation to Second Substitute House Bill No. 2443.

The motion by Senator Kline carried and the committee striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "impaired;" strike the remainder of the title and insert "amending RCW 2.28.175, 9.94A.475, 9.94A.640, 9.95.210, 9.96.060, 38.52.430, 46.20.308, 46.20.385, 46.20.720, 46.20.745, 46.61.5249, 46.61.540, and 43.43.395; reenacting and amending RCW 46.61.500 and 46.61.5055; adding a new section to chapter 43.43 RCW; prescribing penalties; and providing an effective date."

MOTION

On motion of Senator Kline, the rules were suspended, Second Substitute House Bill No. 2443 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2443 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2443 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

SECOND SUBSTITUTE HOUSE BILL NO. 2443 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Second Substitute House Bill No. 2443 was immediately transmitted to the House of Representatives.

#### SECOND READING

SENATE BILL NO. 6250, by Senators Regala, Carrell, Conway, Kilmer, Becker, Roach and Kastama

Clarifying the definition of leasehold interest.

The measure was read the second time.

#### MOTION

On motion of Senator Regala, the rules were suspended, Senate Bill No. 6250 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Schoesler spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Bill No. 6250.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6250 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

SENATE BILL NO. 6250, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Senate Bill No. 6250 was immediately transmitted to the House of Representatives.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 5, 2012

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 2509 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Holmquist Newbry moved that the Senate recede from its position in the Senate amendment(s) to Engrossed House Bill No. 2509.

The President Pro Tempore declared the question before the Senate to be motion by Senator Holmquist Newbry that the Senate recede from its position in the Senate amendment(s) to Engrossed House Bill No. 2509.

The motion by Senator Holmquist Newbry carried and the Senate receded from its position in the Senate amendment(s) to Engrossed House Bill No. 2509 by voice vote.

#### MOTION

On motion of Senator Holmquist Newbry, the rules were suspended and Engrossed House Bill No. 2509 was returned to second reading for the purposes of amendment.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2509, by Representatives Chandler, Bailey and Pearson

Promoting workplace safety and health by enacting the blueprint for safety program.

The measure was read the second time.

#### MOTION

Senator Holmquist Newbry moved that the following striking amendment by Senators Holmquist Newbry and Kohl-Welles be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 49.17 RCW to read as follows:

The blueprint for safety program is established. The goal of the program is to improve safety for employees and lower costs for employers by assisting those employers for which the traditional safety and health model has not been effective. The department shall design the program to promote management and labor leadership in safety and health as essential for long-term success. The criteria for participation may include, but are not limited to: A history with the department indicating a less than optimal leadership commitment to safety and health, a rising experience modification factor, a recent catastrophic workplace injury, a change in the employer's safety management, and a request by the employer to participate. The department shall expand the current blueprint for safety program to include an additional department region of operation. The department shall post information on its web page to provide information about the program to employers. Participation by an employer is voluntary and subject to approval by the department. The program shall supplement, but not replace any of, the department's existing compliance or consultation programs. The department shall adopt rules to establish criteria for participation in the blueprint for safety program, and shall initiate rulemaking in 2012. Funding for the blueprint for safety program created in this section cannot be appropriated from the medical aid fund or the accident fund, but shall be implemented within existing resources."

Senators Holmquist Newbry and Kohl-Welles spoke in favor of adoption of the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators

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Holmquist Newbry and Kohl-Welles to Engrossed House Bill No. 2509.

The motion by Senator Holmquist Newbry carried and the striking amendment was adopted by voice vote.

MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "and adding a new section to chapter 49.17 RCW."

MOTION

On motion of Senator Holmquist Newbry, the rules were suspended, Engrossed House Bill No. 2509 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed House Bill No. 2509 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2509 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

ENGROSSED HOUSE BILL NO. 2509 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed House Bill No. 2509 was immediately transmitted to the House of Representatives.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

On motion of Senator Frockt, Senator Chase was excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Frockt moved that Gubernatorial Appointment No. 9267, Ryan Durkan, as a member of the Board of Regents, Washington State University, be confirmed.

Senator Frockt spoke in favor of the motion.

APPOINTMENT OF RYAN DURKAN

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9267, Ryan Durkan as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9267, Ryan Durkan as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 45; Nays, 2; Absent, 1; Excused, 1.

Voting yea: Senators Becker, Benton, Brown, Carrell, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Baumgartner and Schoesler

Absent: Senator Nelson

Excused: Senator Chase

Gubernatorial Appointment No. 9267, Ryan Durkan, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

MOTION

At 5:36 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 7:25 p.m. by President Owen.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Frockt moved that Gubernatorial Appointment No. 9144, Judi Owens, as a member of the Investment Board, be confirmed.

Senators Frockt and Padden spoke in favor of passage of the motion.

MOTION

On motion of Senator Fain, Senator Ranker was excused.

APPOINTMENT OF JUDI OWENS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9144, Judi Owens as a member of the Investment Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9144, Judi Owens as a member of the Investment Board and the appointment was confirmed by the following vote: Yeas, 46; Nays, 0; Absent, 2; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, King, Kline,

Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senators Kilmer and Pridemore

Excused: Senator Ranker

Gubernatorial Appointment No. 9144, Judi Owens, having received the constitutional majority was declared confirmed as a member of the Investment Board.

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed Ms. Judi Owens who was seated in the gallery.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6492 with the following amendment(s): 6492-S AMH ENGR H4693.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The purpose of this act is to sustainably improve the timeliness of services related to competency to stand trial by setting performance expectations, establishing new mechanisms for accountability, and enacting reforms to ensure that forensic resources are expended in an efficient and clinically appropriate manner without diminishing the quality of competency services, and to reduce the time defendants with mental illness spend in jail awaiting evaluation and restoration of competency.

**NEW SECTION. Sec. 2.** A new section is added to chapter 10.77 RCW to read as follows:

(1)(a) The legislature establishes the following performance targets for the timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient services related to competency to proceed or stand trial for adult criminal defendants. The legislature recognizes that these targets may not be achievable in all cases without compromise to quality of evaluation services, but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy of competency evaluations, and to otherwise make sustainable improvements and track performance related to the timeliness of competency services:

(i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetent to proceed or stand trial, seven days or less;

(ii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody, seven days or less;

(iii) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, twenty-one days or less.

(b) The time periods measured in these performance targets shall run from the date on which the state hospital receives the court

referral and charging documents, discovery, and criminal history information related to the defendant. The targets in (a)(i) and (ii) of this subsection shall be phased in over a six-month period from the effective date of this section. The target in (a)(iii) of this subsection shall be phased in over a twelve-month period from the effective date of this section.

(c) The legislature recognizes the following nonexclusive list of circumstances that may place achievement of targets for completion of competency services described in (a) of this subsection out of the department's reach in an individual case without aspersion to the efforts of the department:

(i) Despite a timely request, the department has not received necessary medical clearance information regarding the current medical status of a defendant in pretrial custody for the purposes of admission to a state hospital;

(ii) The individual circumstances of the defendant make accurate completion of an evaluation of competency to proceed or stand trial dependent upon review of medical history information which is in the custody of a third party and cannot be immediately obtained by the department. Completion of a competency evaluation shall not be postponed for procurement of medical history information which is merely supplementary to the competency determination;

(iii) Completion of the referral is frustrated by lack of availability or participation by counsel, jail or court personnel, interpreters, or the defendant; or

(iv) An unusual spike in the receipt of evaluation referrals or in the number of defendants requiring restoration services has occurred, causing temporary delays until the unexpected excess demand for competency services can be resolved.

(2) The department shall:

(a) Develop, document, and implement procedures to monitor the clinical status of defendants admitted to a state hospital for competency services that allow the state hospital to accomplish early discharge for defendants for whom clinical objectives have been achieved or may be achieved before expiration of the commitment period;

(b) Investigate the extent to which patients admitted to a state hospital under this chapter overstay time periods authorized by law and take reasonable steps to limit the time of commitment to authorized periods; and

(c) Establish written standards for the productivity of forensic evaluators and utilize these standards to internally review the performance of forensic evaluators.

(3) Following any quarter in which a state hospital has failed to meet one or more of the performance targets in subsection (1) of this section after full implementation of the performance target, the department shall report to the executive and the legislature the extent of this deviation and describe any corrective action being taken to improve performance. This report must be made publicly available. An average may be used to determine timeliness under this subsection.

(4) Beginning December 1, 2013, the department shall report annually to the legislature and the executive on the timeliness of services related to competency to proceed or stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.

(5) This section does not create any new entitlement or cause of action related to the timeliness of competency evaluations or admission for inpatient services related to competency to proceed or stand trial, nor can it form the basis for contempt sanctions under chapter 7.21 RCW or a motion to dismiss criminal charges.

**Sec. 3.** RCW 10.77.060 and 2004 c 9 s 1 are each amended to read as follows:

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(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint or request the secretary to designate ~~((at least two))~~ a qualified expert~~((s))~~ or professional person~~((s))~~, ~~((one of whom))~~ who shall be approved by the prosecuting attorney, to ~~((examine))~~ evaluate and report upon the mental condition of the defendant.

~~\_\_\_\_~~(b) The signed order of the court shall serve as authority for the ~~((experts))~~ evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. ~~((At least one of the experts or professional persons appointed shall be a developmental disabilities professional))~~ If the court is advised by any party that the defendant may ~~((be developmentally disabled))~~ have a developmental disability, the evaluation must be performed by a developmental disabilities professional. ~~((Upon agreement of the parties, the court may designate one expert or professional person to conduct the examination and report on the mental condition of the defendant. For purposes of the examination, the court may order))~~

(c) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant ~~((committed))~~ to a hospital or ~~((other suitably))~~ secure ~~((public or private))~~ mental health facility for a period of ~~((time necessary to complete the examination, but))~~ commitment not to exceed fifteen days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(d) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation. ~~((If the defendant is being held in jail or other detention facility, upon agreement of the parties, the court may direct that the examination be conducted at the jail or other detention facility.))~~

~~((b))~~ (e) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

(f) When a defendant is ordered to be committed for inpatient ~~((examination))~~ evaluation under this subsection (1), the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the ~~((expert or professional persons))~~ evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will

fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the ~~((examination))~~ evaluation authorized by subsection (1) of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the ~~((examination))~~ evaluation shall include the following:

(a) A description of the nature of the ~~((examination))~~ evaluation;

(b) A diagnosis or description of the current mental ~~((condition))~~ status of the defendant;

(c) If the defendant suffers from a mental disease or defect, or ~~((is developmentally disabled))~~ has a developmental disability, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a ~~((county))~~ designated mental health professional under chapter 71.05 RCW~~((, and an opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions))~~.

(4) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

**Sec. 4.** RCW 10.77.065 and 2008 c 213 s 1 are each amended to read as follows:

(1)(a)(i) The ~~((facility))~~ expert conducting the evaluation shall provide ~~((his))~~ his or her report and recommendation to the court in which the criminal proceeding is pending. For a competency evaluation of a defendant who is released from custody, if the evaluation cannot be completed within twenty-one days due to a lack of cooperation by the defendant, the evaluator shall notify the court that he or she is unable to complete the evaluation because of such lack of cooperation.

~~((ii))~~ (ii) A copy of the report and recommendation shall be provided to the designated mental health professional, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under ~~((a))~~ ~~((iii))~~ (iv) of this subsection. Upon request, the ~~((facility))~~ evaluator shall also provide copies of any source documents

relevant to the evaluation to the designated mental health professional. ~~((The report and recommendation shall be provided not less than twenty-four hours preceding the transfer of the defendant to the correctional facility in the county in which the criminal proceeding is pending.~~

~~((ii))~~ (iii) Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within two working days or less following the final evaluation of the defendant. If the defendant is discharged to the custody of a local correctional facility, the local correctional facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication.

(iv) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the regional support network, a professional person at the regional support network to receive the report and recommendation.

~~((iii) When a defendant is transferred to the facility conducting the evaluation, or)~~ (v) Upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator ~~((or the facility conducting the evaluation))~~ of the name of the professional person, or person designated under (a)~~((ii))~~ (iv) of this subsection, to receive the report and recommendation.

(b) If the ~~((facility))~~ evaluator concludes, under RCW 10.77.060(3)(f), the person should be ~~((kept under further control, an evaluation shall be conducted of such person))~~ evaluated by a designated mental health professional under chapter 71.05 RCW~~((:)),~~ the court shall order ~~((am))~~ such evaluation be conducted ~~((by the appropriate designated mental health professional: (i))~~ prior to release from confinement ~~((for such person who is convicted, if sentenced to confinement for twenty-four months or less; (ii) for any person who is acquitted; or (iii) for any person: (A) whose charges are dismissed pursuant to RCW 10.77.086(4); or (B) whose nonfelony charges are dismissed))~~ when the person is acquitted or convicted and sentenced to confinement for twenty-four months or less, or when charges are dismissed pursuant to a finding of incompetent to stand trial.

(2) The designated mental health professional shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (1)(a) of this section.

(3) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the designated mental health professional under subsection (2) of this section to the ~~((facility conducting the evaluation under this chapter))~~ secretary.

(4) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may also be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

**Sec. 5.** RCW 10.77.084 and 2007 c 375 s 3 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section.

(b) ~~((A defendant found incompetent shall be evaluated at the direction of the secretary and a determination made whether the~~

defendant is an individual with a developmental disability. Such evaluation and determination shall be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary.

(i) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant shall have the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation shall be sent to the program.

(A) The program shall be separate from programs serving persons involved in any other treatment or habilitation program.

(B) The program shall be appropriately secure under the circumstances and shall be administered by developmental disabilities professionals who shall direct the habilitation efforts.

(C) The program shall provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.

(ii) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.

(iii) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

~~((c))~~ (c) At the end of the mental health treatment and restoration period, if any, or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing. The parties may agree to waive the defendant's presence or to remote participation by the defendant at a hearing or presentation of an agreed order if the recommendation of the evaluator is for the continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to expiration of the defendant's authorized period of commitment, in which case the department shall promptly notify the court and parties of the date of the defendant's admission and expiration of commitment so that a timely hearing date may be scheduled. If, after notice and hearing, competency has been restored, the stay entered under (a) of this subsection shall be lifted. If competency has not been restored, the proceedings shall be dismissed without prejudice. If the court concludes that competency has not been restored, but that further treatment within the time limits established by RCW 10.77.086 or 10.77.088 is likely to restore competency, the court may order that treatment for purposes of competency restoration be continued. Such treatment may not extend beyond the combination of time provided for in RCW 10.77.086 or 10.77.088.

~~((d))~~ (c) If at any time during the proceeding the court finds, following notice and hearing, a defendant is not likely to regain competency, the proceedings shall be dismissed without prejudice and the defendant shall be evaluated for civil commitment proceedings.

(2) If the defendant is referred ~~((to the))~~ for evaluation by a designated mental health professional ~~((for consideration of initial detention proceedings under chapter 71.05 RCW pursuant to))~~ under this chapter, the designated mental health professional shall provide prompt written notification of the results of the ~~((determination whether to commence initial detention proceedings under chapter 71.05 RCW))~~ evaluation and whether the person was detained. The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.

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(3) The fact that the defendant is unfit to proceed does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

(4) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.

(5) At or before the conclusion of any commitment period provided for by this section, the facility providing evaluation and treatment shall provide to the court a written report of ~~((examination))~~ evaluation which meets the requirements of RCW 10.77.060(3). For defendants charged with a felony, the report following the second competency restoration period or first competency restoration period if the defendant's incompetence is determined to be solely due to a developmental disability or the evaluator concludes that the defendant is not likely to regain competency must include an assessment of the defendant's future dangerousness which is evidence-based regarding predictive validity.

**Sec. 6.** RCW 10.77.086 and 2007 c 375 s 4 are each amended to read as follows:

(1)~~(a)~~ If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, or has been determined unlikely to regain competency pursuant to RCW 10.77.084(1)~~((a))~~ ~~(b)~~, but in any event for a period of no longer than ninety days, the court:

~~((a))~~ ~~(i)~~ Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment; or

~~((b))~~ ~~(ii)~~ May alternatively order the defendant to undergo evaluation and treatment at some other facility as determined by the department, or under the guidance and control of a professional person.

(b) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial period of commitment for competency restoration is forty-five days.

(2) On or before expiration of the initial ~~((ninety-day))~~ period of commitment under subsection (1) of this section the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent.

(3) If the court finds by a preponderance of the evidence that a defendant charged with a felony is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional ~~((ninety-day))~~ period of ninety days, but the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second ~~((ninety-day))~~ restoration period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury. No extension shall be ordered for a second ~~((ninety-day))~~ or third restoration period~~((, nor for any subsequent period))~~ as provided in subsection (4) of this section~~((;))~~ if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension.

(4) For persons charged with a felony, at the hearing upon the expiration of the second ~~((ninety-day))~~ restoration period or at the end of the first ~~((ninety-day))~~ restoration period, in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, the charges shall be dismissed without prejudice, and ~~((either civil commitment proceedings shall~~

~~be instituted or))~~ the court shall either order the release of the defendant or order the defendant be committed to a hospital or secure mental health facility for up to seventy-two hours starting from admission to the facility, excluding Saturdays, Sundays, and holidays, for evaluation for the purpose of filing a civil commitment petition. The criminal charges shall not be dismissed if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

**NEW SECTION. Sec. 7.** A new section is added to chapter 10.77 RCW to read as follows:

(1) A defendant found incompetent by the court under RCW 10.77.084 must be evaluated at the direction of the secretary and a determination made whether the defendant is an individual with a developmental disability. Such evaluation and determination must be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary.

(2) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant has the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation must be sent to the program.

(a) The program must be separate from programs serving persons involved in any other treatment or habilitation program.

(b) The program must be appropriately secure under the circumstances and must be administered by developmental disabilities professionals who shall direct the habilitation efforts.

(c) The program must provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.

(3) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.

(4) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

**NEW SECTION. Sec. 8.** The joint legislative audit and review committee shall make an independent assessment of the performance of the state hospitals with respect to provisions specified in section 2 of this act, but shall not be required to independently evaluate the exercise of clinical judgment. A report shall be made to the legislature reflecting the committee's findings and recommendations both six and eighteen months following the effective date of this section. The department of social and health services shall cooperate in a timely manner with requests for data and assistance related to this assessment.

**NEW SECTION. Sec. 9.** The Washington state institute for public policy shall study and report to the legislature the benefit of standardizing protocols used for treatment to restore competency to stand trial in Washington and during what clinically appropriate time period said treatment may be expected to be effective. The department of social and health services shall cooperate in a timely manner with data requests in service of this study.

**NEW SECTION. Sec. 10.** A new section is added to chapter 70.48 RCW to read as follows:

A jail may not refuse to book a patient of a state hospital solely based on the patient's status as a state hospital patient, but may

consider other relevant factors that apply to the individual circumstances in each case.

**NEW SECTION. Sec. 11.** A new section is added to chapter 10.77 RCW to read as follows:

(1) A state hospital may administer antipsychotic medication without consent to an individual who is committed under this chapter as criminally insane by following the same procedures applicable to the administration of antipsychotic medication without consent to a civilly committed patient under RCW 71.05.217, except for the following:

(a) The maximum period during which the court may authorize the administration of medication without consent under a single involuntary medication petition shall be the time remaining on the individual's current order of commitment or one hundred eighty days, whichever is shorter; and

(b) A petition for involuntary medication may be filed in either the superior court of the county that ordered the commitment or the superior court of the county in which the individual is receiving treatment, provided that a copy of any order that is entered must be provided to the superior court of the county that ordered the commitment following the hearing. The superior court of the county of commitment shall retain exclusive jurisdiction over all hearings concerning the release of the patient.

(2) The state has a compelling interest in providing antipsychotic medication to a patient who has been committed as criminally insane when refusal of antipsychotic medication would result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication that is in the best interest of the patient.

**NEW SECTION. Sec. 12.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect May 1, 2012."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate insist on its position regarding to Substitute Senate Bill No. 6492 and ask the House to recede from its amendment.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate insist on its position regarding Substitute Senate Bill No. 6492 and ask the House to recede from its amendment.

The motion by Senator Hargrove carried and the Senate insisted on its position regarding Substitute Senate Bill No. 6492 and asked the House to recede from its amendment by voice vote.

#### MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

#### SECOND SUPPLEMENTAL AND FIRST READING

SCR 8410 by Senators Brown and Hewitt

Returning bills to their house of origin.

SCR 8411 by Senators Brown and Hewitt

Adjourning SINE DIE.

#### INTRODUCTION AND FIRST READING OF HOUSE BILLS

EHB 2262 by Representatives Kagi, Hinkle, Darneille, Ladenburg, Walsh, Goodman, Carlyle, Fitzgibbon, Jinkins, Roberts, Ryu and Kenney

AN ACT Relating to constraints of expenditures for WorkFirst and child care programs; amending RCW 43.88C.010; adding a new section to chapter 74.08A RCW; repealing RCW 74.08A.340; and providing an effective date.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Eide and without objection, Senate Concurrent Resolution No. 8410; Senate Concurrent Resolution No. 8411; and Engrossed House Bill No. 2262 were placed on the second reading calendar under suspension of the rules.

#### MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

#### RULING BY THE PRESIDENT

President Owen: "In ruling on the Points of Order raised by Senator Padden and Senator Benton as to whether the conference committee report to Engrossed Substitute Senate Bill 6455 is outside of the scope and object of the underlying bill and also raises taxes under Initiative No. 1053, the President finds and rules as follows:

The President finds no basis to conclude that the conference committee report impermissibly introduces a new subject into the bill. The report's language is within the scope and object of the underlying measure.

With respect to whether the increase in abstract fees is a tax increase as opposed to a fee, the President believes that there is an appropriate nexus between those paying the fee and the purposes for which the fee can be used. Half of the abstract fee is used by the Department of Licensing, which must maintain the program and generate the abstracts; the other half is used for highway safety purposes. These uses are sufficiently connected to those paying the fee to avoid the supermajority requirements of I-1053. For these reasons, Senator Benton's point is not well-taken.

The fees collected for recreational vehicles, however, are not presently sufficiently tailored to benefit the class of persons paying the fee. While the President believes that a fee could be collected to support recreational vehicle purposes at parks, the conference report language allows the money collected to be used for the operation and maintenance of parks with overnight and recreational vehicle facilities. This support of parks in general is a broad purpose, and thus the fee collected is properly characterized as a tax for purposes of I-1053. For these reasons, Senator Padden's point is well-taken and the bill will take a two-thirds vote on final passage."

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 6455 was deferred and the bill held its place on the Conference calendar.

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SIGNED BY THE PRESIDENT

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SECOND SUBSTITUTE HOUSE BILL NO. 2443,  
ENGROSSED HOUSE BILL NO. 2509,  
and the same are herewith transmitted.

The President signed:  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6150.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

MESSAGE FROM THE HOUSE

March 8, 2012

The President signed:  
SUBSTITUTE HOUSE BILL NO. 1057,  
SUBSTITUTE HOUSE BILL NO. 1552,  
SUBSTITUTE HOUSE BILL NO. 1559,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1627,  
ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO.

MR. PRESIDENT:  
The House has passed ENGROSSED HOUSE BILL NO. 2262.  
and the same is herewith transmitted.

1860,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1983,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2048,  
SUBSTITUTE HOUSE BILL NO. 2177,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2197,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2233,  
SUBSTITUTE HOUSE BILL NO. 2252,  
SUBSTITUTE HOUSE BILL NO. 2254,  
SUBSTITUTE HOUSE BILL NO. 2261,  
SUBSTITUTE HOUSE BILL NO. 2263,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

2264,  
HOUSE BILL NO. 2308,  
SUBSTITUTE HOUSE BILL NO. 2313,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2314,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

MR. PRESIDENT:  
The House passed ENGROSSED SECOND SUBSTITUTE  
SENATE BILL NO. 6284 with the following amendment(s):  
6284-S2.E AMH LIA HELA 079

On page 2, line 8, after "traffic infraction" insert ", failure to  
appear at a requested hearing, violation of a written promise to  
appear in court, or failure to comply with the terms of a notice of  
traffic infraction or citation,"  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

2319,  
SUBSTITUTE HOUSE BILL NO. 2326,  
HOUSE BILL NO. 2329,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

MOTION

2337,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2347,  
SUBSTITUTE HOUSE BILL NO. 2349,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2361,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2363,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

Senator Kline moved that the Senate refuse to concur in the  
House amendment(s) to Engrossed Second Substitute Senate Bill  
No. 6284 and ask the House to recede therefrom.

Senator Pflug spoke in favor of the motion.

The President declared the question before the Senate to be  
the motion by Senator Kline that the Senate refuse to concur in  
the House amendment(s) to Engrossed Second Substitute Senate  
Bill No. 6284 and ask the House to recede therefrom.

The motion by Senator Kline carried and the Senate refused  
to concur in the House amendment(s) to Engrossed Second  
Substitute Senate Bill No. 6284 and asked the House to recede  
therefrom by voice vote.

MOTION

On motion of Senator Schoesler, Senator Fain was excused.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth  
order of business.

MOTION

Senator Schoesler moved that the senate immediately  
reconsider the vote by which Gubernatorial Appointment No.  
9144 which passed the Senate earlier in the day.

Senator Brown spoke in favor of the motion.

2373,  
SECOND SUBSTITUTE HOUSE BILL NO. 2452,  
HOUSE BILL NO. 2482,  
HOUSE BILL NO. 2485,  
HOUSE BILL NO. 2499,  
HOUSE BILL NO. 2535,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2567,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2570,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2582,  
THIRD SUBSTITUTE HOUSE BILL NO. 2585,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2586,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2614,  
SUBSTITUTE HOUSE BILL NO. 2617,  
ENGROSSED HOUSE BILL NO. 2620,  
SUBSTITUTE HOUSE BILL NO. 2640,  
SUBSTITUTE HOUSE BILL NO. 2673,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2692,  
ENGROSSED HOUSE BILL NO. 2771,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2799.

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:  
The House concurred in the Senate amendments to the following  
bills and passed the bills as amended by the Senate:

APPOINTMENT OF JUDI OWENS  
ON RECONSIDERATION

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9144, Judi Owens on reconsideration as a member of the Investment Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9144, Judi Owens on reconsideration as a member of the Investment Board and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Gubernatorial Appointment No. 9144, Judi Owens on reconsideration, having received the constitutional majority was declared confirmed as a member of the Investment Board.

#### MOTION

At 8:04 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 8:47 p.m. by President Owen.

#### SECOND READING CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Kline moved that Gubernatorial Appointment No. 9257, Ron Sims, as a member of the Board of Regents, Washington State University, be confirmed.

Senator Kline spoke in favor of the motion.

Senator Schoesler spoke against the motion.

#### MOTION

On motion of Senator Harper, Senators Kohl-Welles and Prentice were excused.

#### APPOINTMENT OF RON SIMS

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9257, Ron Sims as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9257, Ron Sims as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 32; Nays, 15; Absent, 1; Excused, 1.

Voting yea: Senators Brown, Chase, Conway, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Rolfes, Sheldon, Shin and Tom

Voting nay: Senators Baumgartner, Becker, Benton, Carrell, Delvin, Hewitt, Hill, Holmquist Newbry, Honeyford, Morton, Padden, Schoesler, Stevens, Swecker and Zarelli

Absent: Senator Ericksen

Excused: Senator Prentice

Gubernatorial Appointment No. 9257, Ron Sims, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2262, by Representatives Kagi, Hinkle, Darneille, Ladenburg, Walsh, Goodman, Carlyle, Fitzgibbon, Jinkins, Roberts, Ryu and Kenney

Regarding constraints of expenditures for WorkFirst and child care programs.

The measure was read the second time.

#### MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli and Regala be adopted:

On page 1, line 14, after "legislature", strike all material through "RCW 74.08A.260" on line 15

Senators Zarelli and Regala spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Zarelli and Regala on page 1, line 14 to Engrossed House Bill No. 2262.

The motion by Senator Zarelli carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator Regala, the rules were suspended, Engrossed House Bill No. 2262 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala, Carrell and Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2262 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2262 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

ENGROSSED HOUSE BILL NO. 2262 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

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SUBSTITUTE HOUSE BILL NO. 2357, by House Committee on Ways & Means (originally sponsored by Representatives Darneille, Kirby, Ladenburg, Green, Jinkins, Kagi and Tharinger)

Concerning sales and use tax for chemical dependency, mental health treatment, and therapeutic courts.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2357 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2357.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2357 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Baumgartner, Carrell, Ericksen, Holmquist Newbry, Honeyford, Morton, Padden and Schoesler

SUBSTITUTE HOUSE BILL NO. 2357, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2139, by House Committee on Ways & Means (originally sponsored by Representatives Cody and Hunter)

Concerning the establishment of new regional support network boundaries.

The measure was read the second time.

MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 2139 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2139.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2139 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

SUBSTITUTE HOUSE BILL NO. 2139, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House passed SENATE BILL NO. 5950 with the following amendment(s): 5950 AMH WAYS H4676.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.27.130 and 1993 c 47 s 3 are each amended to read as follows:

The mayor and members of the town council may be reimbursed for actual expenses incurred in the discharge of their official duties upon presentation of a claim therefor and its allowance and approval by resolution of the town council. The mayor and members of the council may also receive such salary as the council may fix by ordinance.

The treasurer and treasurer-clerk shall severally receive at stated times a compensation to be fixed by ordinance.

The compensation of all other officers and employees shall be fixed from time to time by the council.

Any town that provides a pension for any of its employees under a plan not administered by the state must notify the state auditor of the existence of the plan at the time of an audit of the town by the auditor. No town may establish a pension plan for its employees that is not administered by the state, (~~except that any~~) with the following exceptions:

(1) Participation in a defined contribution plan in existence as of January 1, 1990, is deemed to have been authorized. No town that provides a defined contribution plan for its employees as authorized by this section may make any material changes in the terms or conditions of the plan after June 7, 1990.

(2) Participation in a defined benefit pension plan that commenced prior to January 1, 1999, is authorized to continue. No town that commenced participation in a defined benefit pension plan that is not administered by the state may make any material changes in the terms or conditions of the plan after June 7, 1999."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Roach moved that the Senate concur in the House amendment(s) to Senate Bill No. 5950.

Senator Roach spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Roach that the Senate concur in the House amendment(s) to Senate Bill No. 5950.

The motion by Senator Roach carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5950 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5950, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5950, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

SENATE BILL NO. 5950, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Kohl-Welles: "Thank you Mr. President. I believe that this is a good time to mention that we have a holiday today. This is the 101<sup>st</sup> anniversary of International Women's Day. It is celebrated all over the world. It may seem frivolous to some people in this body, however, when it first began in 1911 at an International Conference in Copenhagen recommended that all countries recognized the achievements and the difficulties faced by women in the world. It was one week later on March 19, 1911 that the Triangle fire occurred in New York City which one hundred forty working women, mainly Italian and Jewish immigrants, perished because they were locked into a garment factory when the fire broke out and could not escape and died. Ever since 1975, the United Nations having proclaimed March 8 as International Women's Day, we have had celebrations all over the world including in the United States. We've had much to celebrate here in the state of Washington. We've been a leader in the country in terms of women in elected office. We're the only state in the history of the country that's had a female Governor and our two U. S. Senators being women. We've also had been a leader in women participation in the legislature. We're number six right now with thirty-two percent of us being women but from 1994 through 2006 we were number one in the entire county, for twelve years, with nearly forty-one percent of the legislature being comprised of women. There are many things that we can recognize with the state of Washington. One other very important one is that we enacted women's right to vote ten years before it happened nationally. We did it in 1910. Mr. President, may I read just one short quote? This comes from a notable and highly regarded former first lady of the United States, Barbara Bush, of course, who has been known for her strong belief in equality for women and she said; 'Somewhere out in this audience may even

be someday who will follow in my footsteps and preside over the White House as the President's spouse. I wish him well.' Thank you Mr. President."

#### PERSONAL PRIVILEGE

Senator Padden: "Well, just to follow up on some of the lady from the Thirty-sixth District. You may not remember this but the very first legislative district in the whole United States to have only women representation was my colleague from Spokane, Majority Leaders district, in 1982 was represented by Senator Margaret Hurley in the Senate and in the House by Representatives Lois Stratton and Margaret Leonard. The very first. They thought a little bit more like I did than some of the women today but anyway I thought you would be interested in that. Thank you."

#### PERSONAL PRIVILEGE

Senator Chase: "Thank you Mr. President. I rise to honor women today, this evening. You know ninety-eight years ago, ninety-nine maybe by now, Nelly Axelrod from Bellingham joined this august body to become one of the first women to serve in this legislature. You know we think about the years since that time and it was only in 1945 that women and men were finally in an international treaty positive as equals, in the Treaty of the united Nations and the Universal Declaration of the Human Rights but it was not until 1991-92 in Vienna that women's rights were considered to be human rights. You know this is an important time for women, to renew our interest in human rights and I urge to start thinking in terms of how far we have come and how far we have to go. There are young women in our society and in our state who think that the rights that they currently enjoy are there forever but you know for someone who has been in the trenches, as it were, all of my life struggling for women's rights it is something that we need to defend at all times. I thank the gentle lady from the Thirty-sixth for bringing this issue forward."

EDITOR'S NOTE: Elected to the House of Representatives in 1912, Representatives Frances C. Axtell of Whatcom County and Nena Jolidon Croake of Pierce Count were the first women to serve in the Washington State Legislature, beginning their service at the 1913 Regular Session.]

#### MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House has passed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5539,

SUBSTITUTE SENATE BILL NO. 6073. and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

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Senator Hill moved that Gubernatorial Appointment No. 9207, Wayne Martin, as a member of the State Board for Community and Technical Colleges, be confirmed.

Senator Hill spoke in favor of the motion.

APPOINTMENT OF WAYNE MARTIN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9207, Wayne Martin as a member of the State Board for Community and Technical Colleges.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9207, Wayne Martin as a member of the State Board for Community and Technical Colleges and the appointment was confirmed by the following vote: Yeas, 47; Nays, 1; Absent, 1; Excused, 0.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Frocht, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Baumgartner

Absent: Senator Ranker

Gubernatorial Appointment No. 9207, Wayne Martin, having received the constitutional majority was declared confirmed as a member of the State Board for Community and Technical Colleges.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hill moved that Gubernatorial Appointment No. 9244, Anne Fennessy, as a member of the State Board for Community and Technical Colleges, be confirmed.

Senator Hill spoke in favor of the motion.

MOTION

On motion of Senator Harper, Senator Ranker was excused.

APPOINTMENT OF ANNE FENNESSY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9244, Anne Fennessy as a member of the State Board for Community and Technical Colleges.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9244, Anne Fennessy as a member of the State Board for Community and Technical Colleges and the appointment was confirmed by the following vote: Yeas, 47; Nays, 1; Absent, 1; Excused, 0.

Voting yea: Senators Becker, Benton, Carrell, Chase, Conway, Delvin, Eide, Erickson, Fain, Fraser, Frocht, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Baumgartner

Absent: Senator Brown

Gubernatorial Appointment No. 9244, Anne Fennessy, having received the constitutional majority was declared confirmed as a member of the State Board for Community and Technical Colleges.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6492. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6492-S AMH PEDE H4705.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The purpose of this act is to sustainably improve the timeliness of services related to competency to stand trial by setting performance expectations, establishing new mechanisms for accountability, and enacting reforms to ensure that forensic resources are expended in an efficient and clinically appropriate manner without diminishing the quality of competency services, and to reduce the time defendants with mental illness spend in jail awaiting evaluation and restoration of competency.

NEW SECTION. **Sec. 2.** A new section is added to chapter 10.77 RCW to read as follows:

(1)(a) The legislature establishes the following performance targets for the timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient services related to competency to proceed or stand trial for adult criminal defendants. The legislature recognizes that these targets may not be achievable in all cases without compromise to quality of evaluation services, but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy of competency evaluations, and to otherwise make sustainable improvements and track performance related to the timeliness of competency services:

(i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized treatment or evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on incompetent to proceed or stand trial, seven days or less;

(ii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody, seven days or less;

(iii) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from custody and makes a reasonable effort to cooperate with the evaluation, twenty-one days or less.

(b) The time periods measured in these performance targets shall run from the date on which the state hospital receives the court referral and charging documents, discovery, and criminal history information related to the defendant. The targets in (a)(i) and (ii) of this subsection shall be phased in over a six-month period from the effective date of this section. The target in (a)(iii) of this subsection

shall be phased in over a twelve-month period from the effective date of this section.

(c) The legislature recognizes the following nonexclusive list of circumstances that may place achievement of targets for completion of competency services described in (a) of this subsection out of the department's reach in an individual case without aspersion to the efforts of the department:

(i) Despite a timely request, the department has not received necessary medical clearance information regarding the current medical status of a defendant in pretrial custody for the purposes of admission to a state hospital;

(ii) The individual circumstances of the defendant make accurate completion of an evaluation of competency to proceed or stand trial dependent upon review of medical history information which is in the custody of a third party and cannot be immediately obtained by the department. Completion of a competency evaluation shall not be postponed for procurement of medical history information which is merely supplementary to the competency determination;

(iii) Completion of the referral is frustrated by lack of availability or participation by counsel, jail or court personnel, interpreters, or the defendant; or

(iv) An unusual spike in the receipt of evaluation referrals or in the number of defendants requiring restoration services has occurred, causing temporary delays until the unexpected excess demand for competency services can be resolved.

(2) The department shall:

(a) Develop, document, and implement procedures to monitor the clinical status of defendants admitted to a state hospital for competency services that allow the state hospital to accomplish early discharge for defendants for whom clinical objectives have been achieved or may be achieved before expiration of the commitment period;

(b) Investigate the extent to which patients admitted to a state hospital under this chapter overstay time periods authorized by law and take reasonable steps to limit the time of commitment to authorized periods; and

(c) Establish written standards for the productivity of forensic evaluators and utilize these standards to internally review the performance of forensic evaluators.

(3) Following any quarter in which a state hospital has failed to meet one or more of the performance targets in subsection (1) of this section after full implementation of the performance target, the department shall report to the executive and the legislature the extent of this deviation and describe any corrective action being taken to improve performance. This report must be made publicly available. An average may be used to determine timeliness under this subsection.

(4) Beginning December 1, 2013, the department shall report annually to the legislature and the executive on the timeliness of services related to competency to proceed or stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.

(5) This section does not create any new entitlement or cause of action related to the timeliness of competency evaluations or admission for inpatient services related to competency to proceed or stand trial, nor can it form the basis for contempt sanctions under chapter 7.21 RCW or a motion to dismiss criminal charges.

**Sec. 3.** RCW 10.77.060 and 2004 c 9 s 1 are each amended to read as follows:

(1)(a) Whenever a defendant has pleaded not guilty by reason of insanity, or there is reason to doubt his or her competency, the court on its own motion or on the motion of any party shall either appoint

or request the secretary to designate ~~((at least two))~~ a qualified expert((s)) or professional person((s)), ~~((one of whom))~~ who shall be approved by the prosecuting attorney, to ~~((examine))~~ evaluate and report upon the mental condition of the defendant.

~~\_\_\_(b) The signed order of the court shall serve as authority for the ((experts)) evaluator to be given access to all records held by any mental health, medical, educational, or correctional facility that relate to the present or past mental, emotional, or physical condition of the defendant. ((At least one of the experts or professional persons appointed shall be a developmental disabilities professional)) If the court is advised by any party that the defendant may ((be developmentally disabled)) have a developmental disability, the evaluation must be performed by a developmental disabilities professional. ((Upon agreement of the parties, the court may designate one expert or professional person to conduct the examination and report on the mental condition of the defendant. For purposes of the examination, the court may order))~~

(c) The evaluator shall assess the defendant in a jail, detention facility, in the community, or in court to determine whether a period of inpatient commitment will be necessary to complete an accurate evaluation. If inpatient commitment is needed, the signed order of the court shall serve as authority for the evaluator to request the jail or detention facility to transport the defendant ~~((committed))~~ to a hospital or ~~((other suitably))~~ secure ~~((public or private))~~ mental health facility for a period of ~~((time necessary to complete the examination, but))~~ commitment not to exceed fifteen days from the time of admission to the facility. Otherwise, the evaluator shall complete the evaluation.

(d) The court may commit the defendant for evaluation to a hospital or secure mental health facility without an assessment if: (i) The defendant is charged with murder in the first or second degree; (ii) the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation; or (iii) the court finds that an evaluation outside the jail setting is necessary for the health, safety, or welfare of the defendant. The court shall not order an initial inpatient evaluation for any purpose other than a competency evaluation. ~~((If the defendant is being held in jail or other detention facility, upon agreement of the parties, the court may direct that the examination be conducted at the jail or other detention facility. —(b)))~~

(e) The order shall indicate whether, in the event the defendant is committed to a hospital or secure mental health facility for evaluation, all parties agree to waive the presence of the defendant or to the defendant's remote participation at a subsequent competency hearing or presentation of an agreed order if the recommendation of the evaluator is for continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to the expiration of the authorized commitment period.

(f) When a defendant is ordered to be committed for inpatient ~~((examination))~~ evaluation under this subsection (1), the court may delay granting bail until the defendant has been evaluated for competency or sanity and appears before the court. Following the evaluation, in determining bail the court shall consider: (i) Recommendations of the ~~((expert or professional persons))~~ evaluator regarding the defendant's competency, sanity, or diminished capacity; (ii) whether the defendant has a recent history of one or more violent acts; (iii) whether the defendant has previously been acquitted by reason of insanity or found incompetent; (iv) whether it is reasonably likely the defendant will fail to appear for a future court hearing; and (v) whether the defendant is a threat to public safety.

(2) The court may direct that a qualified expert or professional person retained by or appointed for the defendant be permitted to witness the ~~((examination))~~ evaluation authorized by subsection (1)

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of this section, and that the defendant shall have access to all information obtained by the court appointed experts or professional persons. The defendant's expert or professional person shall have the right to file his or her own report following the guidelines of subsection (3) of this section. If the defendant is indigent, the court shall upon the request of the defendant assist him or her in obtaining an expert or professional person.

(3) The report of the ~~((examination))~~ evaluation shall include the following:

(a) A description of the nature of the ~~((examination))~~ evaluation;

(b) A diagnosis or description of the current mental ~~((condition))~~ status of the defendant;

(c) If the defendant suffers from a mental disease or defect, or ~~((is developmentally disabled))~~ has a developmental disability, an opinion as to competency;

(d) If the defendant has indicated his or her intention to rely on the defense of insanity pursuant to RCW 10.77.030, and an evaluation and report by an expert or professional person has been provided concluding that the defendant was criminally insane at the time of the alleged offense, an opinion as to the defendant's sanity at the time of the act, and an opinion as to whether the defendant presents a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, provided that no opinion shall be rendered under this subsection (3)(d) unless the evaluator or court determines that the defendant is competent to stand trial;

(e) When directed by the court, if an evaluation and report by an expert or professional person has been provided concluding that the defendant lacked the capacity at the time of the offense to form the mental state necessary to commit the charged offense, an opinion as to the capacity of the defendant to have a particular state of mind which is an element of the offense charged;

(f) An opinion as to whether the defendant should be evaluated by a ~~((county))~~ designated mental health professional under chapter 71.05 RCW ~~((, and an opinion as to whether the defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions)).~~

(4) The secretary may execute such agreements as appropriate and necessary to implement this section and may choose to designate more than one evaluator.

**Sec. 4.** RCW 10.77.065 and 2008 c 213 s 1 are each amended to read as follows:

(1)(a)(i) The ~~((facility))~~ expert conducting the evaluation shall provide ~~((its))~~ his or her report and recommendation to the court in which the criminal proceeding is pending. For a competency evaluation of a defendant who is released from custody, if the evaluation cannot be completed within twenty-one days due to a lack of cooperation by the defendant, the evaluator shall notify the court that he or she is unable to complete the evaluation because of such lack of cooperation.

(ii) A copy of the report and recommendation shall be provided to the designated mental health professional, the prosecuting attorney, the defense attorney, and the professional person at the local correctional facility where the defendant is being held, or if there is no professional person, to the person designated under (a)~~((iii))~~ (iv) of this subsection. Upon request, the ~~((facility))~~ evaluator shall also provide copies of any source documents relevant to the evaluation to the designated mental health professional. ~~((The report and recommendation shall be provided not less than twenty-four hours preceding the transfer of the defendant to the correctional facility in the county in which the criminal proceeding is pending.~~

~~((ii))~~ (iii) Any facility providing inpatient services related to competency shall discharge the defendant as soon as the facility determines that the defendant is competent to stand trial. Discharge shall not be postponed during the writing and distribution of the evaluation report. Distribution of an evaluation report by a facility providing inpatient services shall ordinarily be accomplished within two working days or less following the final evaluation of the defendant. If the defendant is discharged to the custody of a local correctional facility, the local correctional facility must continue the medication regimen prescribed by the facility, when clinically appropriate, unless the defendant refuses to cooperate with medication.

(iv) If there is no professional person at the local correctional facility, the local correctional facility shall designate a professional person as defined in RCW 71.05.020 or, in cooperation with the regional support network, a professional person at the regional support network to receive the report and recommendation.

~~((iii))~~ When a defendant is transferred to the facility conducting the evaluation, ~~or~~ (v) Upon commencement of a defendant's evaluation in the local correctional facility, the local correctional facility must notify the evaluator ~~((or the facility conducting the evaluation))~~ of the name of the professional person, or person designated under (a)~~((iii))~~ (iv) of this subsection, to receive the report and recommendation.

(b) If the ~~((facility))~~ evaluator concludes, under RCW 10.77.060(3)(f), the person should be ~~((kept under further control, an evaluation shall be conducted of such person))~~ evaluated by a designated mental health professional under chapter 71.05 RCW~~((,))~~, the court shall order ~~((an))~~ such evaluation be conducted ~~((by the appropriate designated mental health professional: (i))~~ prior to release from confinement ~~((for such person who is convicted, if sentenced to confinement for twenty-four months or less; (ii) for any person who is acquitted; or (iii) for any person: (A) whose charges are dismissed pursuant to RCW 10.77.086(4); or (B) whose nonfelony charges are dismissed))~~ when the person is acquitted or convicted and sentenced to confinement for twenty-four months or less, or when charges are dismissed pursuant to a finding of incompetent to stand trial.

(2) The designated mental health professional shall provide written notification within twenty-four hours of the results of the determination whether to commence proceedings under chapter 71.05 RCW. The notification shall be provided to the persons identified in subsection (1)(a) of this section.

(3) The prosecuting attorney shall provide a copy of the results of any proceedings commenced by the designated mental health professional under subsection (2) of this section to the ~~((facility conducting the evaluation under this chapter))~~ secretary.

(4) The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services under this chapter may also be disclosed to the courts solely to prevent the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

**Sec. 5.** RCW 10.77.084 and 2007 c 375 s 3 are each amended to read as follows:

(1)(a) If at any time during the pendency of an action and prior to judgment the court finds, following a report as provided in RCW 10.77.060, a defendant is incompetent, the court shall order the proceedings against the defendant be stayed except as provided in subsection (4) of this section.

(b) ~~((A defendant found incompetent shall be evaluated at the direction of the secretary and a determination made whether the defendant is an individual with a developmental disability. Such evaluation and determination shall be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary.~~

(i) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant shall have the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation shall be sent to the program.

(A) The program shall be separate from programs serving persons involved in any other treatment or habilitation program.

(B) The program shall be appropriately secure under the circumstances and shall be administered by developmental disabilities professionals who shall direct the habilitation efforts.

(C) The program shall provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.

(ii) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.

(iii) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

(c)) At the end of the mental health treatment and restoration period, if any, or at any time a professional person determines competency has been, or is unlikely to be, restored, the defendant shall be returned to court for a hearing. The parties may agree to waive the defendant's presence or to remote participation by the defendant at a hearing or presentation of an agreed order if the recommendation of the evaluator is for the continuation of the stay of criminal proceedings, or if the opinion of the evaluator is that the defendant remains incompetent and there is no remaining restoration period, and the hearing is held prior to expiration of the defendant's authorized period of commitment, in which case the department shall promptly notify the court and parties of the date of the defendant's admission and expiration of commitment so that a timely hearing date may be scheduled. If, after notice and hearing, competency has been restored, the stay entered under (a) of this subsection shall be lifted. If competency has not been restored, the proceedings shall be dismissed without prejudice. If the court concludes that competency has not been restored, but that further treatment within the time limits established by RCW 10.77.086 or 10.77.088 is likely to restore competency, the court may order that treatment for purposes of competency restoration be continued. Such treatment may not extend beyond the combination of time provided for in RCW 10.77.086 or 10.77.088.

~~((4))~~ (c) If at any time during the proceeding the court finds, following notice and hearing, a defendant is not likely to regain competency, the proceedings shall be dismissed without prejudice and the defendant shall be evaluated for civil commitment proceedings.

(2) If the defendant is referred ~~((to the))~~ for evaluation by a designated mental health professional ((for consideration of initial detention proceedings under chapter 71.05 RCW pursuant to)) under this chapter, the designated mental health professional shall provide prompt written notification of the results of the ~~((determination whether to commence initial detention proceedings under chapter 71.05 RCW))~~ evaluation and whether the person was detained. The notification shall be provided to the court in which the criminal action was pending, the prosecutor, the defense attorney in the criminal action, and the facility that evaluated the defendant for competency.

(3) The fact that the defendant is unfit to proceed does not preclude any pretrial proceedings which do not require the personal participation of the defendant.

(4) A defendant receiving medication for either physical or mental problems shall not be prohibited from standing trial, if the medication either enables the defendant to understand the proceedings against him or her and to assist in his or her own defense, or does not disable him or her from so understanding and assisting in his or her own defense.

(5) At or before the conclusion of any commitment period provided for by this section, the facility providing evaluation and treatment shall provide to the court a written report of ~~((examination))~~ evaluation which meets the requirements of RCW 10.77.060(3). For defendants charged with a felony, the report following the second competency restoration period or first competency restoration period if the defendant's incompetence is determined to be solely due to a developmental disability or the evaluator concludes that the defendant is not likely to regain competency must include an assessment of the defendant's future dangerousness which is evidence-based regarding predictive validity.

**Sec. 6.** RCW 10.77.086 and 2007 c 375 s 4 are each amended to read as follows:

(1)(a) If the defendant is charged with a felony and determined to be incompetent, until he or she has regained the competency necessary to understand the proceedings against him or her and assist in his or her own defense, or has been determined unlikely to regain competency pursuant to RCW 10.77.084(1)(~~((e))~~) (b), but in any event for a period of no longer than ninety days, the court:

~~((a))~~ (i) Shall commit the defendant to the custody of the secretary who shall place such defendant in an appropriate facility of the department for evaluation and treatment; or

~~((b))~~ (ii) May alternatively order the defendant to undergo evaluation and treatment at some other facility as determined by the department, or under the guidance and control of a professional person.

(b) For a defendant whose highest charge is a class C felony, or a class B felony that is not classified as violent under RCW 9.94A.030, the maximum time allowed for the initial period of commitment for competency restoration is forty-five days.

(2) On or before expiration of the initial ~~((ninety day))~~ period of commitment under subsection (1) of this section the court shall conduct a hearing, at which it shall determine whether or not the defendant is incompetent.

(3) If the court finds by a preponderance of the evidence that a defendant charged with a felony is incompetent, the court shall have the option of extending the order of commitment or alternative treatment for an additional ~~((ninety day))~~ period of ninety days, but the court must at the time of extension set a date for a prompt hearing to determine the defendant's competency before the expiration of the second ~~((ninety day))~~ restoration period. The defendant, the defendant's attorney, or the prosecutor has the right to demand that the hearing be before a jury. No extension shall be ordered for a second ~~((ninety day))~~ or third restoration period ~~((nor for any subsequent period))~~ as provided in subsection (4) of this section ~~((s))~~ if the defendant's incompetence has been determined by the secretary to be solely the result of a developmental disability which is such that competence is not reasonably likely to be regained during an extension.

(4) For persons charged with a felony, at the hearing upon the expiration of the second ~~((ninety day))~~ restoration period or at the end of the first ~~((ninety day))~~ restoration period, in the case of a defendant with a developmental disability, if the jury or court finds that the defendant is incompetent, the charges shall be dismissed without prejudice, and ~~((either civil commitment proceedings shall be instituted or))~~ the court shall either order the release of the defendant or order the defendant be committed to a hospital or secure mental health facility for up to seventy-two hours starting from admission to the facility, excluding Saturdays, Sundays, and

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holidays, for evaluation for the purpose of filing a civil commitment petition. The criminal charges shall not be dismissed if the court or jury finds that: (a) The defendant (i) is a substantial danger to other persons; or (ii) presents a substantial likelihood of committing criminal acts jeopardizing public safety or security; and (b) there is a substantial probability that the defendant will regain competency within a reasonable period of time. In the event that the court or jury makes such a finding, the court may extend the period of commitment for up to an additional six months.

**NEW SECTION. Sec. 7.** A new section is added to chapter 10.77 RCW to read as follows:

(1) A defendant found incompetent by the court under RCW 10.77.084 must be evaluated at the direction of the secretary and a determination made whether the defendant is an individual with a developmental disability. Such evaluation and determination must be accomplished as soon as possible following the court's placement of the defendant in the custody of the secretary.

(2) When appropriate, and subject to available funds, if the defendant is determined to be an individual with a developmental disability, he or she may be placed in a program specifically reserved for the treatment and training of persons with developmental disabilities where the defendant has the right to habilitation according to an individualized service plan specifically developed for the particular needs of the defendant. A copy of the evaluation must be sent to the program.

(a) The program must be separate from programs serving persons involved in any other treatment or habilitation program.

(b) The program must be appropriately secure under the circumstances and must be administered by developmental disabilities professionals who shall direct the habilitation efforts.

(c) The program must provide an environment affording security appropriate with the charged criminal behavior and necessary to protect the public safety.

(3) The department may limit admissions of such persons to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services.

(4) The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set by the department.

**Sec. 8.** RCW 71.05.310 and 2005 c 504 s 709 are each amended to read as follows:

The court shall conduct a hearing on the petition for ninety-day treatment within five judicial days of the first court appearance after the probable cause hearing, or within ten judicial days for a petition filed under RCW 71.05.280(3). The court may continue the hearing for good cause upon the written request of the person named in the petition or the person's attorney(¶). The court may continue for good cause ((shown, which continuance shall not exceed five additional judicial days)) the hearing on a petition filed under RCW 71.05.280(3) upon written request by the person named in the petition, the person's attorney, or the petitioner. If the person named in the petition requests a jury trial, the trial shall commence within ten judicial days of the first court appearance after the probable cause hearing. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The person shall be present at such proceeding, which shall in all respects accord with the constitutional guarantees of due process of law and the rules of evidence pursuant to RCW 71.05.360 (8) and (9).

During the proceeding, the person named in the petition shall continue to be treated until released by order of the superior court. If no order has been made within thirty days after the filing of the petition, not including extensions of time requested by the detained person or his or her attorney, or the petitioner in the case of a petition

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filed under RCW 71.05.280(3), the detained person shall be released.

**NEW SECTION. Sec. 9.** The joint legislative audit and review committee shall make an independent assessment of the performance of the state hospitals with respect to provisions specified in section 2 of this act, but shall not be required to independently evaluate the exercise of clinical judgment. A report shall be made to the legislature reflecting the committee's findings and recommendations both six and eighteen months following the effective date of this section. The department of social and health services shall cooperate in a timely manner with requests for data and assistance related to this assessment.

**NEW SECTION. Sec. 10.** The Washington state institute for public policy shall study and report to the legislature the benefit of standardizing protocols used for treatment to restore competency to stand trial in Washington and during what clinically appropriate time period said treatment may be expected to be effective. The department of social and health services shall cooperate in a timely manner with data requests in service of this study.

**NEW SECTION. Sec. 11.** A new section is added to chapter 70.48 RCW to read as follows:

A jail may not refuse to book a patient of a state hospital solely based on the patient's status as a state hospital patient, but may consider other relevant factors that apply to the individual circumstances in each case.

**NEW SECTION. Sec. 12.** A new section is added to chapter 10.77 RCW to read as follows:

(1) A state hospital may administer antipsychotic medication without consent to an individual who is committed under this chapter as criminally insane by following the same procedures applicable to the administration of antipsychotic medication without consent to a civilly committed patient under RCW 71.05.217, except for the following:

(a) The maximum period during which the court may authorize the administration of medication without consent under a single involuntary medication petition shall be the time remaining on the individual's current order of commitment or one hundred eighty days, whichever is shorter; and

(b) A petition for involuntary medication may be filed in either the superior court of the county that ordered the commitment or the superior court of the county in which the individual is receiving treatment, provided that a copy of any order that is entered must be provided to the superior court of the county that ordered the commitment following the hearing. The superior court of the county of commitment shall retain exclusive jurisdiction over all hearings concerning the release of the patient.

(2) The state has a compelling interest in providing antipsychotic medication to a patient who has been committed as criminally insane when refusal of antipsychotic medication would result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication that is in the best interest of the patient.

**NEW SECTION. Sec. 13.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 14.** This act is necessary for the immediate preservation of the public peace, health, or safety, and takes effect May 1, 2012."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6492.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6492.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6492 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6492, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6492, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

SUBSTITUTE SENATE BILL NO. 6492, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTED SENATE BILL NO. 5978 with the following amendment(s): 5978-S.E AMH WAYS H4692.1

Strike everything after the enacting clause and insert the following:

**"PART I****WASHINGTON MEDICAID FRAUD PROVISIONS**

**NEW SECTION. Sec. 101.** The legislature intends to enact a state false claims act in order to provide this state with another tool to combat medicaid fraud. The legislature finds that between 1996 and 2009 state-initiated false claims acts resulted in over five billion dollars in total recoveries to those states. The highest recoveries in those cases were from claims relating to billing fraud, off-label marketing, and withholding safety information; these cases were primarily related to the pharmaceuticals industry and hospital networks, hospitals, and medical centers. By this act, the legislature does not intend to target a certain industry, profession, or retailer of medical equipment, or to place an undue burden on health care professionals. This act is not intended to harass health care professionals, nor is intended to be used as a tool to target actions that are related to incidental errors or clerical errors, which should not be considered fraud. The intent is to use the false claims act to root out significant areas of fraud that result in higher health care

costs to this state and to use the false claims act to recover state money that could and should be used to support the medicaid program.

**Sec. 102.** RCW 74.09.210 and 2011 1st sp.s. c 15 s 15 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 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 ~~((secretary or))~~ director ~~((as appropriate,))~~ 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 ~~((in the general fund))~~ upon their receipt into the medicaid fraud penalty account established in section 103 of this act.

(6) The attorney general may contract with private attorneys and local governments in bringing actions under this section as necessary.

**NEW SECTION. Sec. 103.** A new section is added to chapter 74.09 RCW 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.--- RCW (the new chapter created in section 215 of this act) 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.

**NEW SECTION. Sec. 104.** A new section is added to chapter 74.09 RCW to read as follows:

(1) For the purposes of this section:

(a) "Employer" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity.

(b) "Whistleblower" means an employee of an employer that obtains or attempts to obtain benefits or payments under this chapter

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in violation of RCW 74.09.210, who in good faith reports a violation of RCW 74.09.210 to the authority.

(c) "Workplace reprisal or retaliatory action" includes, but is not limited to: Denial of adequate staff to fulfill duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct under Title 18 RCW; unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; suspension; dismissal; denial of employment; or a supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower; or a change in the physical location of the employee's workplace or a change in the basic nature of the employee's job, if either are in opposition to the employee's expressed wish.

(2) A whistleblower who has been subjected to workplace reprisal or retaliatory action has the remedies provided under chapter 49.60 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to persons who communicate to government agencies, apply to complaints made under this section. The identity of a whistleblower who complains, in good faith, to the authority about a suspected violation of RCW 74.09.210 may remain confidential if requested. The identity of the whistleblower must subsequently remain confidential unless the authority determines that the complaint was not made in good faith.

(3) This section does not prohibit an employer from exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower. The protections provided to whistleblowers under this chapter do not prevent an employer from: (a) Terminating, suspending, or disciplining a whistleblower for other lawful purposes; or (b) reducing the hours of employment or terminating employment as a result of the demonstrated inability to meet payroll requirements. The authority shall determine if the employer cannot meet payroll in cases where a whistleblower has been terminated or had hours of employment reduced due to the inability of a facility to meet payroll.

(4) The authority shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under this chapter. The authority shall adopt rules designed to discourage whistleblower complaints made in bad faith or for retaliatory purposes.

**NEW SECTION. Sec. 105.** A new section is added to chapter 74.09 RCW to read as follows:

The following must be medicare providers in order to be paid under the medicaid program: Providers of durable medical equipment and related supplies and providers of medical supplies and related services.

## PART II

### MEDICAID FRAUD FALSE CLAIMS ACT

**NEW SECTION. Sec. 201.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1)(a) "Claim" means any request or demand made for a medicaid payment under chapter 74.09 RCW, whether under a contract or otherwise, for money or property and whether or not a government entity has title to the money or property, that:

- (i) Is presented to an officer, employee, or agent of a government entity; or
- (ii) Is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the government entity's behalf or to advance a government entity program or interest, and the government entity:

(A) Provides or has provided any portion of the money or property requested or demanded; or

(B) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

(b) A "claim" does not include requests or demands for money or property that the government entity has paid to an individual as compensation for employment or as an income subsidy with no restrictions on that individual's use of the money or property.

(2) "Custodian" means the custodian, or any deputy custodian, designated by the attorney general.

(3) "Documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document, or data compilations stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret the data compilations, and any product of discovery.

(4) "False claims act investigation" means any inquiry conducted by any false claims act investigator for the purpose of ascertaining whether any person is or has been engaged in any violation of this chapter.

(5) "False claims act investigator" means any attorney or investigator employed by the state attorney general who is charged with the duty of enforcing or carrying into effect any provision of this chapter, or any officer or employee of the state of Washington acting under the direction and supervision of the attorney or investigator in connection with an investigation pursuant to this chapter.

(6) "Government entity" means all Washington state agencies that administer medicaid funded programs under this title.

(7)(a) "Knowing" and "knowingly" mean that a person, with respect to information:

- (i) Has actual knowledge of the information;
- (ii) Acts in deliberate ignorance of the truth or falsity of the information; or
- (iii) Acts in reckless disregard of the truth or falsity of the information.

(b) "Knowing" and "knowingly" do not require proof of specific intent to defraud.

(8) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(9) "Obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or rule, or from the retention of any overpayment.

(10) "Official use" means any use that is consistent with the law, and the rules and policies of the attorney general, including use in connection with: Internal attorney general memoranda and reports; communications between the attorney general and a federal, state, or local government agency, or a contractor of a federal, state, or local government agency, undertaken in furtherance of an investigation or prosecution of a case; interviews of any qui tam relator or other witness; oral examinations; depositions; preparation for and response to civil discovery requests; introduction into the record of a case or proceeding; applications, motions, memoranda, and briefs submitted to a court or other tribunal; and communications with attorney general investigators, auditors, consultants and experts, the counsel of other parties, and arbitrators or mediators, concerning an investigation, case, or proceeding.

(11) "Person" means any natural person, partnership, corporation, association, or other legal entity, including any local or political subdivision of a state.

(12) "Product of discovery" includes:

(a) The original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission, which is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature;

(b) Any digest, analysis, selection, compilation, or derivation of any item listed in (a) of this subsection; and

(c) Any index or other manner of access to any item listed in (a) of this subsection.

(13) "Qui tam action" is an action brought by a person under section 205 of this act.

(14) "Qui tam relator" or "relator" is a person who brings an action under section 205 of this act.

**NEW SECTION. Sec. 202.** (1) Subject to subsections (2) and (4) of this section, a person is liable to the government entity for a civil penalty of not less than five thousand five hundred dollars and not more than eleven thousand dollars, plus three times the amount of damages which the government entity sustains because of the act of that person, if the person:

(a) Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(b) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(c) Conspires to commit one or more of the violations in this subsection (1);

(d) Has possession, custody, or control of property or money used, or to be used, by the government entity and knowingly delivers, or causes to be delivered, less than all of that money or property;

(e) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the government entity and, intending to defraud the government entity, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(f) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the government entity who lawfully may not sell or pledge property; or

(g) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the government entity, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the government entity.

(2) The court may assess not less than two times the amount of damages which the government entity sustains because of the act of a person, if the court finds that:

(a) The person committing the violation of subsection (1) of this section furnished the Washington state attorney general with all information known to him or her about the violation within thirty days after the date on which he or she first obtained the information;

(b) The person fully cooperated with any investigation by the attorney general of the violation; and

(c) At the time the person furnished the attorney general with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

(3) A person violating this section is liable to the attorney general for the costs of a civil action brought to recover any such penalty or damages.

(4) For the purposes of determining whether an insurer has a duty to provide a defense or indemnification for an insured and if coverage may be denied if the terms of the policy exclude coverage for intentional acts, a violation of subsection (1) of this section is an intentional act.

(5) The office of the attorney general must, by rule, annually adjust the civil penalties established in subsection (1) of this section so that they are equivalent to the civil penalties provided under the federal false claims act and in accordance with the federal civil penalties inflation adjustment act of 1990.

**NEW SECTION. Sec. 203.** Any information furnished pursuant to this chapter is exempt from disclosure under the public records act, chapter 42.56 RCW, until final disposition and all court ordered seals are lifted.

**NEW SECTION. Sec. 204.** The attorney general must diligently investigate a violation under section 202 of this act. If the attorney general finds that a person has violated or is violating section 202 of this act, the attorney general may bring a civil action under this section against the person.

**NEW SECTION. Sec. 205.** (1) A person may bring a civil action for a violation of section 202 of this act for the person and for the government entity. The action may be known as a qui tam action and the person bringing the action as a qui tam relator. The action must be brought in the name of the government entity. The action may be dismissed only if the court, and the attorney general give written consent to the dismissal and their reason for consenting.

(2) A relator filing an action under this chapter must serve a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses on the attorney general in electronic format. The relator must file the complaint in camera. The complaint must remain under seal for at least sixty days, and may not be served on the defendant until the court so orders. The attorney general may elect to intervene and proceed with the action within sixty days after it receives both the complaint and the material evidence and information.

(3) The attorney general may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under subsection (2) of this section. The motions may be supported by affidavits or other submissions in camera. The defendant may not be required to respond to any complaint filed under this section until twenty days after the complaint is unsealed and served upon the defendant.

(4) If the attorney general does not proceed with the action prior to the expiration of the sixty-day period or any extensions obtained under subsection (3) of this section, then the relator has the right to conduct the action.

(5) When a person brings an action under this section, no person other than the attorney general may intervene or bring a related action based on the facts underlying the pending action.

**NEW SECTION. Sec. 206.** (1) If the attorney general proceeds with the qui tam action, the attorney general shall have the primary responsibility for prosecuting the action, and is not bound by an act of the relator. The relator has the right to continue as a party to the action, subject to the limitations set forth in subsection (2) of this section.

(2)(a) The attorney general may move to dismiss the qui tam action notwithstanding the objections of the relator if the relator has been notified by the attorney general of the filing of the motion and the court has provided the relator with an opportunity for a hearing on the motion.

(b) The attorney general may settle the action with the defendant notwithstanding the objections of the relator if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in camera.

(c) Upon a showing by the attorney general that unrestricted participation during the course of the litigation by the relator would interfere with or unduly delay the attorney general's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the relator's participation, such as:

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- (i) Limiting the number of witnesses the relator may call;
- (ii) Limiting the length of the testimony of the witnesses;
- (iii) Limiting the relator's cross-examination of witnesses; or
- (iv) Otherwise limiting the participation by the relator in the litigation.

(d) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the relator would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the relator in the litigation.

(3) If the attorney general elects not to proceed with the qui tam action, the relator has the right to conduct the action. If the attorney general so requests, the relator must serve on the attorney general copies of all pleadings filed in the action and shall supply copies of all deposition transcripts, at the attorney general's expense. When the relator proceeds with the action, the court, without limiting the status and rights of the relator, may nevertheless permit the attorney general to intervene at a later date upon a showing of good cause.

(4) Whether or not the attorney general proceeds with the qui tam action, upon a showing by the attorney general that certain actions of discovery by the relator would interfere with the attorney general's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty days. The showing must be conducted in camera. The court may extend the sixty-day period upon a further showing in camera that the attorney general has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding section 205 of this act, the attorney general may elect to pursue its claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil money penalty. If any alternate remedy is pursued in another proceeding, the relator has the same rights in the proceeding as the relator would have had if the action had continued under this section. Any finding of fact or conclusion of law made in the other proceeding that has become final is conclusive on all parties to an action under this section. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the state of Washington, if all time for filing the appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

**NEW SECTION. Sec. 207.** (1)(a) Subject to (b) of this subsection, if the attorney general proceeds with a qui tam action, the relator must receive at least fifteen percent but not more than twenty-five percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the relator substantially contributed to the prosecution of the action.

(b) Where the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the relator, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award an amount it considers appropriate, but in no case more than ten percent of the proceeds, taking into account the significance of the information and the role of the relator in advancing the case to litigation.

(c) Any payment to a relator under (a) or (b) of this subsection must be made from the proceeds. The relator must also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs must be awarded against the defendant.

(2) If the attorney general does not proceed with a qui tam action, the relator shall receive an amount which the court decides is

reasonable for collecting the civil penalty and damages. The amount may not be less than twenty-five percent and not more than thirty percent of the proceeds of the action or settlement and must be paid out of the proceeds. The relator must also receive an amount for reasonable expenses, which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs must be awarded against the defendant.

(3) Whether or not the attorney general proceeds with the qui tam action, if the court finds that the action was brought by a person who planned and initiated the violation of section 202 of this act upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under subsection (1) or (2) of this section, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of section 202 of this act, that person must be dismissed from the civil action and may not receive any share of the proceeds of the action. The dismissal may not prejudice the right of the state to continue the action, represented by the attorney general.

(4) If the attorney general does not proceed with the qui tam action and the relator conducts the action, the court may award to the defendant reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the relator was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(5) Any funds recovered that remain after calculation and distribution under subsections (1) through (3) of this section must be deposited into the medicaid fraud penalty account established in section 103 of this act.

**NEW SECTION. Sec. 208.** (1) In no event may a person bring a qui tam action which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the state is already a party.

(2)(a) The court must dismiss an action or claim under this section, unless opposed by the attorney general, if substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed:

(i) In a state criminal, civil, or administrative hearing in which the attorney general or other governmental entity is a party;

(ii) In a legislative report, or other state report, hearing, audit, or investigation; or

(iii) By the news media;

unless the action is brought by the attorney general or the relator is an original source of the information.

(b) For purposes of this section, "original source" means an individual who either (i) prior to a public disclosure under (a) of this subsection, has voluntarily disclosed to the attorney general the information on which allegations or transactions in a claim are based, or (ii) has knowledge that is independent of, and materially adds to, the publicly disclosed allegations or transactions, and who has voluntarily provided the information to the attorney general before filing an action under this section.

**NEW SECTION. Sec. 209.** (1) Any employee, contractor, or agent is entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent, is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under this chapter or other efforts to stop one or more violations of this chapter.

(2) Relief under subsection (1) of this section must include reinstatement with the same seniority status that employee,

contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees, and any and all relief available under RCW 49.60.030(2). An action under this subsection may be brought in the appropriate superior court of the state of Washington for the relief provided in this subsection.

(3) A civil action under this section may not be brought more than three years after the date when the retaliation occurred.

**NEW SECTION. Sec. 210.** (1) A subpoena requiring the attendance of a witness at a trial or hearing conducted under section 204 or 205 of this act may be served at any place in the state of Washington.

(2) A civil action under section 204 or 205 of this act may be brought at any time, without limitation after the date on which the violation of section 202 of this act is committed.

(3) If the attorney general elects to intervene and proceed with a qui tam action, the attorney general may file its own complaint or amend the complaint of a relator to clarify or add detail to the claims in which the attorney general is intervening and to add any additional claims with respect to which the attorney general contends it is entitled to relief.

(4) In any action brought under section 204 or 205 of this act, the attorney general is required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(5) Notwithstanding any other provision of law or the rules for superior court, a final judgment rendered in favor of the government entity in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, estops the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under section 204 or 205 of this act.

**NEW SECTION. Sec. 211.** (1) Any action under section 204 or 205 of this act may be brought in the superior court in any county in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by section 202 of this act occurred. The appropriate court must issue a summons as required by the superior court civil rules and service must occur at any place within the state of Washington.

(2) The superior courts have jurisdiction over any action brought under the laws of any city or county for the recovery of funds paid by a government entity if the action arises from the same transaction or occurrence as an action brought under section 204 or 205 of this act.

(3) With respect to any local government that is named as a coplaintiff with the state in an action brought under section 205 of this act, a seal on the action ordered by the court under section 205 of this act does not preclude the attorney general or the person bringing the action from serving the complaint, any other pleadings, or the written disclosure of substantially all material evidence and information possessed by the person bringing the action on the law enforcement authorities that are authorized under the law of the local government to investigate and prosecute the action on behalf of the local government, except that the seal applies to the law enforcement authorities so served to the same extent as the seal applies to other parties in the action.

**NEW SECTION. Sec. 212.** (1)(a) Whenever the attorney general, or a designee, for purposes of this section, has reason to believe that any person may be in possession, custody, or control of any documentary material or information relevant to a false claims act investigation, the attorney general, or a designee, may, before commencing a civil proceeding under section 204 of this act or

making an election under section 205 of this act, issue in writing and serve upon the person, a civil investigative demand requiring the person:

(i) To produce the documentary material for inspection and copying;

(ii) To answer in writing written interrogatories with respect to the documentary material or information;

(iii) To give oral testimony concerning the documentary material or information; or

(iv) To furnish any combination of such material, answers, or testimony.

(b) The attorney general may delegate the authority to issue civil investigative demands under this subsection (1). Whenever a civil investigative demand is an express demand for any product of discovery, the attorney general, the deputy attorney general, or an assistant attorney general must serve, in any manner authorized by this section, a copy of the demand upon the person from whom the discovery was obtained and must notify the person to whom the demand is issued of the date on which the copy was served. Any information obtained by the attorney general or a designee of the attorney general under this section may be shared with any qui tam relator if the attorney general or designee determines it is necessary as part of any false claims act investigation.

(2)(a) Each civil investigative demand issued under subsection (1) of this section must state the nature of the conduct constituting the alleged violation of this chapter which is under investigation, and the applicable provision of law alleged to be violated.

(b) If the demand is for the production of documentary material, the demand must:

(i) Describe each class of documentary material to be produced with such definiteness and certainty as to permit the material to be fairly identified;

(ii) Prescribe a return date for each class which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying; and

(iii) Identify the false claims act investigator to whom such material must be made available.

(c) If the demand is for answers to written interrogatories, the demand must:

(i) Set forth with specificity the written interrogatories to be answered;

(ii) Prescribe dates at which time answers to written interrogatories must be submitted; and

(iii) Identify the false claims law investigator to whom such answers must be submitted.

(d) If the demand is for the giving of oral testimony, the demand must:

(i) Prescribe a date, time, and place at which oral testimony must be commenced;

(ii) Identify a false claims act investigator who must conduct the examination and the custodian to whom the transcript of the examination must be submitted;

(iii) Specify that the attendance and testimony are necessary to the conduct of the investigation;

(iv) Notify the person receiving the demand of the right to be accompanied by an attorney and any other representative; and

(v) Describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry, which will be taken pursuant to the demand.

(e) Any civil investigative demand issued under this section which is an express demand for any product of discovery is not due until thirty days after a copy of the demand has been served upon the person from whom the discovery was obtained.

(f) The date prescribed for the commencement of oral testimony pursuant to a civil investigative demand issued under this section

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may not be sooner than six days after the date on which demand is received, unless the attorney general or an assistant attorney general designated by the attorney general determines that exceptional circumstances are present which warrant the commencement of the testimony sooner.

(g) The attorney general may not authorize the issuance under this section of more than one civil investigative demand for oral testimony by the same person unless the person requests otherwise or unless the attorney general, after investigation, notifies that person in writing that an additional demand for oral testimony is necessary.

(3) A civil investigative demand issued under subsection (1) or (2) of this section may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if the material, answers, or testimony would be protected from disclosure under:

(a) The standards applicable to subpoenas or subpoenas duces tecum issued by a court to aid in a special inquiry investigation; or

(b) The standards applicable to discovery requests under the superior court civil rules, to the extent that the application of these standards to any demand is appropriate and consistent with the provisions and purposes of this section.

(4) Any demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law, other than this section, preventing or restraining disclosure of the product of discovery to any person. Disclosure of any product of discovery pursuant to any express demand does not constitute a waiver of any right or privilege which the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

(5) Any civil investigative demand issued under this section may be served by a false claims act investigator, or by a commissioned law enforcement official, at any place within the state of Washington.

(6) Service of any civil investigative demand issued under (a) of this subsection or of any petition filed under subsection (25) of this section may be made upon a partnership, corporation, association, or other legal entity by:

(a) Delivering an executed copy of the demand or petition to any partner, executive officer, managing agent, or general agent of the partnership, corporation, association, or entity, or to any agent authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(b) Delivering an executed copy of the demand or petition to the principal office or place of business of the partnership, corporation, association, or entity; or

(c) Depositing an executed copy of the demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(7) Service of any demand or petition may be made upon any natural person by:

(a) Delivering an executed copy of the demand or petition to the person; or

(b) Depositing an executed copy of the demand or petition in the United States mail by registered or certified mail, with a return receipt requested, addressed to the person at the person's residence or principal office or place of business.

(8) A verified return by the individual serving any civil investigative demand issued under subsection (1) or (2) of this section or any petition filed under subsection (25) of this section setting forth the manner of the service constitutes proof of the service. In the case of service by registered or certified mail, the return must be accompanied by the return post office receipt of delivery of the demand.

(9)(a) The production of documentary material in response to a civil investigative demand served under this section must be made under a sworn certificate, in the form as the demand designates, by:

(i) In the case of a natural person, the person to whom the demand is directed; or

(ii) In the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person.

(b) The certificate must state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the false claims act investigator identified in the demand.

(10) Any person upon whom any civil investigative demand for the production of documentary material has been served under this section shall make such material available for inspection and copying to the false claims act investigator identified in the demand at the principal place of business of the person, or at another place as the false claims act investigator and the person thereafter may agree and prescribe in writing, or as the court may direct under subsection (25) of this section. The material must be made available on the return date specified in the demand, or on a later date as the false claims act investigator may prescribe in writing. The person may, upon written agreement between the person and the false claims act investigator, substitute copies for originals of all or any part of the material.

(11)(a) Each interrogatory in a civil investigative demand served under this section must be answered separately and fully in writing under oath and must be submitted under a sworn certificate, in the form as the demand designates, by:

(i) In the case of a natural person, the person to whom the demand is directed; or

(ii) In the case of a person other than a natural person, the person or persons responsible for answering each interrogatory.

(b) If any interrogatory is objected to, the reasons for the objection must be stated in the certificate instead of an answer. The certificate must state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information must be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(12) The examination of any person pursuant to a civil investigative demand for oral testimony served under this section must be taken before an officer authorized to administer oaths and affirmations by the laws of the state of Washington or of the place where the examination is held. The officer before whom the testimony is to be taken must put the witness on oath or affirmation and must, personally or by someone acting under the direction of the officer and in the officer's presence, record the testimony of the witness. The testimony must be recorded and must be transcribed. When the testimony is fully transcribed, the officer before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian. This subsection does not preclude the taking of testimony by any means authorized by, and in a manner consistent with, the superior court civil rules.

(13) The false claims act investigator conducting the examination shall exclude from the place where the examination is held all persons except the person giving the testimony, the attorney for and any other representative of the person giving the testimony, the attorney general, any person who may be agreed upon by the attorney for the government and the person giving the testimony, the officer before whom the testimony is to be taken, and any stenographer taking the testimony.

(14) The oral testimony of any person taken pursuant to a civil investigative demand served under this section must be taken in the county within which such person resides, is found, or transacts business, or in another place as may be agreed upon by the false claims act investigator conducting the examination and the person.

(15) When the testimony is fully transcribed, the false claims act investigator or the officer before whom the testimony is taken must afford the witness, who may be accompanied by counsel, a reasonable opportunity to examine and read the transcript, unless the examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make must be entered and identified upon the transcript by the officer or the false claims act investigator, with a statement of the reasons given by the witness for making the changes. The transcript must then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within thirty days after being afforded a reasonable opportunity to examine it, the officer or the false claims act investigator must sign it and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with the reasons given.

(16) The officer before whom the testimony is taken must certify on the transcript that the witness was sworn by the officer and that the transcript is a true record of the testimony given by the witness, and the officer or false claims act investigator must promptly deliver the transcript, or send the transcript by registered or certified mail, to the custodian.

(17) Upon payment of reasonable charges therefor, the false claims act investigator must furnish a copy of the transcript to the witness only, except that the attorney general, the deputy attorney general, or an assistant attorney general may, for good cause, limit the witness to inspection of the official transcript of the witness' testimony.

(18)(a) Any person compelled to appear for oral testimony under a civil investigative demand issued under subsection (1) or (2) of this section may be accompanied, represented, and advised by counsel. Counsel may advise the person, in confidence, with respect to any question asked of the person. The person or counsel may object on the record to any question, in whole or in part, and must briefly state for the record the reason for the objection. An objection may be made, received, and entered upon the record when it is claimed that the person is entitled to refuse to answer the question on the grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. The person may not otherwise object to or refuse to answer any question, and may not directly or through counsel otherwise interrupt the oral examination. If the person refuses to answer any question, a special injury proceeding petition may be filed in the superior court under subsection (25) of this section for an order compelling the person to answer the question.

(b) If the person refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of the person may be compelled in accordance with the provisions of the superior court civil rules.

(19) Any person appearing for oral testimony under a civil investigative demand issued under subsection (1) or (2) of this section is entitled to the same fees and allowances which are paid to witnesses in the superior courts.

(20) The attorney general must designate a false claims act investigator to serve as custodian of documentary material, answers to interrogatories, and transcripts of oral testimony received under this section, and must designate such additional false claims act investigators as the attorney general determines from time to time to be necessary to serve as deputies to the custodian.

(21)(a) A false claims act investigator who receives any documentary material, answers to interrogatories, or transcripts of

oral testimony under this section must transmit them to the custodian. The custodian shall take physical possession of the material, answers, or transcripts and is responsible for the use made of them and for the return of documentary material under subsection (23) of this section.

(b) The custodian may cause the preparation of the copies of the documentary material, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any false claims act investigator, or employee of the attorney general. The material, answers, and transcripts may be used by any authorized false claims act investigator or other officer or employee in connection with the taking of oral testimony under this section.

(c)(i) Except as otherwise provided in this subsection (21), no documentary material, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, may be available for examination by any individual other than a false claims act investigator or other officer or employee of the attorney general authorized under (b) of this subsection.

(ii) The prohibition in (c)(i) of this subsection on the availability of material, answers, or transcripts does not apply if consent is given by the person who produced the material, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand for the material, consent is given by the person from whom the discovery was obtained. Nothing in this subsection (c)(ii) is intended to prevent disclosure to the legislature, including any committee or subcommittee for use by such an agency in furtherance of its statutory responsibilities.

(d) While in the possession of the custodian and under the reasonable terms and conditions as the attorney general shall prescribe:

(i) Documentary material and answers to interrogatories must be available for examination by the person who produced the material or answers, or by a representative of that person authorized by that person to examine the material and answers; and

(ii) Transcripts of oral testimony must be available for examination by the person who produced the testimony, or by a representative of that person authorized by that person to examine the transcripts.

(22) Whenever any official has been designated to appear before any court, special inquiry judge, or state administrative judge in any case or proceeding, the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony received under this section may deliver to the official the material, answers, or transcripts for official use in connection with any case or proceeding as the official determines to be required. Upon the completion of such a case or proceeding, the official must return to the custodian any material, answers, or transcripts so delivered which have not passed into the control of any court, grand jury, or agency through introduction into the record of such a case or proceeding.

(23) If any documentary material has been produced by any person in the course of any false claims act investigation pursuant to a civil investigative demand under this section, and:

(a) Any case or proceeding before the court or special inquiry judge arising out of the investigation, or any proceeding before any administrative judge involving the material, has been completed; or

(b) No case or proceeding in which the material may be used has been commenced within a reasonable time after completion of the examination and analysis of all documentary material and other information assembled in the course of the investigation:

Then, the custodian shall, upon written request of the person who produced the material, return to the person the material, other than copies furnished to the false claims act investigator under subsection (10) of this section or made for the attorney general under subsection (21)(b) of this section, which has not passed into the

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control of any court, grand jury, or agency through introduction into the record of the case or proceeding.

(24)(a) In the event of the death, disability, or separation from service of the attorney general of the custodian of any documentary material, answers to interrogatories, or transcripts of oral testimony produced pursuant to civil investigative demand under this section, or in the event of the official relief of the custodian from responsibility for the custody and control of the material, answers, or transcripts, the attorney general must promptly:

(i) Designate another false claims act investigator to serve as custodian of the material, answers, or transcripts; and

(ii) Transmit in writing to the person who produced the material, answers, or testimony notice of the identity and address of the successor so designated.

(b) Any person who is designated to be a successor under this subsection (24) has, with regard to the material, answers, or transcripts, the same duties and responsibilities as were imposed by this section upon that person's predecessor in office, except that the successor may not be held responsible for any default or dereliction which occurred before that designation.

(25) Whenever any person fails to comply with any civil investigative demand issued under subsection (1) or (2) of this section, or whenever satisfactory copying or reproduction of any material requested in the demand cannot be done and the person refuses to surrender the material, the attorney general may file, in any superior court of the state of Washington for any county in which the person resides, is found, or transacts business, and serve upon the person a petition for an order of the court for the enforcement of the civil investigative demand.

(26)(a) Any person who has received a civil investigative demand issued under subsection (1) or (2) of this section may file, in the superior court of the state of Washington for the county within which the person resides, is found, or transacts business, and serve upon the false claims act investigator identified in the demand a petition for an order of the court to modify or set aside the demand. In the case of a petition addressed to an express demand for any product of discovery, a petition to modify or set aside the demand may be brought only in the district court of the United States for the judicial district in which the proceeding in which the discovery was obtained is or was last pending. Any petition filed under this subsection (26)(a) must be filed:

(i) Within thirty days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier; or

(ii) Within a longer period as may be prescribed in writing by any false claims act investigator identified in the demand.

(b) The petition must specify each ground upon which the petitioner relies in seeking relief under (a) of this subsection, and may be based upon any failure of the demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

(27)(a) In the case of any civil investigative demand issued under subsection (1) or (2) of this section which is an express demand for any product of discovery, the person from whom the discovery was obtained may file, in the superior court of the state of Washington for the county in which the proceeding in which the discovery was obtained is or was last pending, and serve upon any false claims act investigator identified in the demand and upon the recipient of the demand, a petition for an order of the court to modify or set aside those portions of the demand requiring production of

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any product of discovery. Any petition under this subsection (27)(a) must be filed:

(i) Within twenty days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier; or

(ii) Within a longer period as may be prescribed in writing by any false claims act investigator identified in the demand.

(b) The petition must specify each ground upon which the petitioner relies in seeking relief under (a) of this subsection, and may be based upon any failure of the portions of the demand from which relief is sought to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of the petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand.

(28) At any time during which any custodian is in custody or control of any documentary material or answers to interrogatories produced, or transcripts of oral testimony given, by any person in compliance with any civil investigative demand issued under subsection (1) or (2) of this section, the person, and in the case of an express demand for any product of discovery, the person from whom the discovery was obtained, may file, in the superior court of the state of Washington for the county within which the office of the custodian is situated, and serve upon the custodian, a petition for an order of the court to require the performance by the custodian of any duty imposed upon the custodian by this section.

(29) Whenever any petition is filed in any superior court of the state of Washington under this section, the court has jurisdiction to hear and determine the matter so presented, and to enter an order or orders as may be required to carry out the provisions of this section. Any final order so entered is subject to appeal under the rules of appellate procedure. Any disobedience of any final order entered under this section by any court must be punished as a contempt of the court.

(30) The superior court civil rules apply to any petition under this section, to the extent that the rules are not inconsistent with the provisions of this section.

(31) Any documentary material, answers to written interrogatories, or oral testimony provided under any civil investigative demand issued under subsection (1) or (2) of this section are exempt from disclosure under the public records act, chapter 42.56 RCW.

**NEW SECTION. Sec. 213.** Beginning November 15, 2012, and annually thereafter, the attorney general in consultation with the health care authority must report results of implementing the medicaid fraud false claims act. This report must include:

(1) The number of attorneys assigned to qui tam initiated actions;

(2) The number of cases brought by qui tam actions and indicate how many cases are brought by the attorney general and how many by the qui tam relator without attorney general participation;

(3) The results of any actions brought under subsection (2) of this section, delineated by cases brought by the attorney general and cases brought by the qui tam relator without attorney general participation;

(4) The amount of recoveries attributable to the medicaid false claims; and

(5) Information on the costs, attorneys' fees, and any other expenses incurred by defendants in investigating and defending against qui tam actions, to the extent this information is provided to the attorney general or health care authority.

**NEW SECTION. Sec. 214.** This chapter may be known and cited as the medicaid fraud false claims act.

**NEW SECTION. Sec. 215.** Sections 201 through 214 of this act constitute a new chapter in Title 74 RCW.

**NEW SECTION. Sec. 216.** A new section is added to chapter 43.131 RCW to read as follows:

The medicaid fraud false claims act as established under chapter 74.-- RCW (the new chapter created in sections 201 through 214 of this act) shall be terminated on June 30, 2016, as provided in section 217 of this act.

**NEW SECTION. Sec. 217.** A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2017:

- (1) Section 201 of this act;
- (2) Section 202 of this act;
- (3) Section 203 of this act;
- (4) Section 204 of this act;
- (5) Section 205 of this act;
- (6) Section 206 of this act;
- (7) Section 207 of this act;
- (8) Section 208 of this act;
- (9) Section 209 of this act;
- (10) Section 210 of this act;
- (11) Section 211 of this act;
- (12) Section 212 of this act;
- (13) Section 213 of this act; and
- (14) Section 214 of this act.

**NEW SECTION. Sec. 218.** 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."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Pflug moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5978.

Senator Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pflug that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5978.

The motion by Senator Pflug carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5978 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5978, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5978, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 9; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Delvin, Ericksen, Holmquist Newbry, Honeyford, King, Morton, Padden, Schoesler and Stevens

ENGROSSED SUBSTITUTE SENATE BILL NO. 5978, as amended by the House, having received the constitutional

majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2571, by House Committee on Health & Human Services Appropriations & Oversight (originally sponsored by Representatives Parker, Cody, Dammeyer, Darneille, Alexander, Schmick, Orcutt, Hurst and Kelley)

Concerning waste, fraud, and abuse prevention, detection, and recovery to improve program integrity for medical services programs. Revised for 1st Substitute: Concerning waste, fraud, and abuse prevention, detection, and recovery to improve program integrity for medical services programs. (REVISED FOR ENGROSSED: Concerning waste, fraud, and abuse detection, prevention, and recovery solutions to improve program integrity for medical services programs. )

The measure was read the second time.

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2571 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2571.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2571 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2571, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

On motion of Senator Eide, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

**EDITOR'S NOTE:** Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

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THIRD SUPPLEMENTAL AND FIRST READING  
OF HOUSE BILLS

## MOTION

At 9:58 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:37 p.m. by President Owen.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Chase moved that Gubernatorial Appointment No. 9066, Shoubee Liaw, as a member of the Board of Trustees, Shoreline Community College District No. 7, be confirmed.

Senator Chase spoke in favor of the motion.

## APPOINTMENT OF SHOUBEE LIAW

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9066, Shoubee Liaw as a member of the Board of Trustees, Shoreline Community College District No. 7.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9066, Shoubee Liaw as a member of the Board of Trustees, Shoreline Community College District No. 7 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 1; Absent, 1; Excused, 0.

Voting yea: Senators Becker, Benton, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hill, Hobbs, Holmquist Newbry, Honeyford, Kastama, Keiser, Kilmer, King, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Baumgartner

Absent: Senator Kline

Gubernatorial Appointment No. 9066, Shoubee Liaw, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Shoreline Community College District No. 7.

## MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

## MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House has passed ENGROSSED HOUSE BILL NO. 2660, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

EHB 2660 by Representatives Clibborn, Ryu, Moeller, Finn, Billig, Eddy, Fitzgibbon and Moscoso

AN ACT Relating to transportation revenue; amending RCW 46.17.100, 46.17.140, 46.17.200, 46.20.293, 46.29.050, 46.52.130, 46.70.061, 46.70.180, 46.10.420, 46.12.675, and 46.16A.320; reenacting and amending RCW 88.02.640; adding a new section to chapter 46.68 RCW; adding a new section to chapter 46.17 RCW; creating a new section; providing an effective date; providing an expiration date; and providing a contingent expiration date.

## MOTION

On motion of Senator Eide, the rules were suspended, and without objection Engrossed House Bill No. 2660 was placed on the second reading calendar.

## MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

## SECOND READING

ENGROSSED HOUSE BILL NO. 2660, by Representatives Clibborn, Ryu, Moeller, Finn, Billig, Eddy, Fitzgibbon and Moscoso

Addressing transportation revenue.

The measure was read the second time.

## MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed House Bill No. 2660 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Haugen spoke in favor of passage of the bill.

Senator King spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2660.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2660 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Chase, Conway, Delvin, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hobbs, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Litzow, McAuliffe, Murray, Nelson, Prentice, Pridemore, Ranker, Regala, Rolfes, Shin, Swecker and Tom

Voting nay: Senators Baumgartner, Becker, Benton, Carrell, Ericksen, Hewitt, Hill, Holmquist Newbry, Honeyford, King, Morton, Padden, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Zarelli

ENGROSSED HOUSE BILL NO. 2660, having received the constitutional majority, was declared passed. There being no

objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

REPORT OF THE CONFERENCE COMMITTEE  
Engrossed Substitute House Bill No. 2190  
March 8, 2012

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute House Bill No. 2190, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"2011-2013 FISCAL BIENNIUM

GENERAL GOVERNMENT AGENCIES—OPERATING

Sec. 101. 2011 c 367 s 101 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Motor Vehicle Account--State Appropriation .....((~~\$430,000~~))  
.....\$416,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is provided solely for staffing costs to be dedicated to state transportation activities. Staff hired to support transportation activities must have practical experience with complex construction projects.

Sec. 102. 2011 c 367 s 103 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

Motor Vehicle Account--State Appropriation .....((~~\$2,216,000~~))  
.....\$2,128,000  
Puget Sound Ferry Operations Account--State  
Appropriation .....((~~\$4,624,000~~))  
.....\$1,260,000  
Multimodal Transportation Account--State  
Appropriation .....\$350,000  
TOTAL APPROPRIATION.....((~~\$6,840,000~~))  
.....\$3,738,000

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

(1) The office of financial management, in consultation with the transportation committees of the legislature, shall conduct a budget evaluation study for the new traffic management center proposed by the department of transportation. The study must consider data resulting from the plan identified in section 604 of this act. The budget evaluation study team approach using value engineering techniques must be utilized by the office of financial management in conducting the study. The office of financial management shall select the budget evaluation study team members, contract for the study, and report the results to the transportation committees of the legislature and the department of transportation in a timely manner following the study. Options reviewed must include use of existing facilities, including the Wheeler building data center in Olympia. Funds allocated for the new traffic management center must be used by the office of financial management through an interagency

agreement with the department of transportation to cover the cost of the study.

(2) ((~~\$4,480,000~~ of the Puget Sound ferry operations account--state appropriation is provided solely for marine insurance. The appropriation is intended to fully fund a two-year policy, and the office of financial management shall increase the deductible to \$10,000,000 and reduce components of the policy in order to keep the total cost of the two-year policy at or below the appropriation in this subsection.

(5)) \$1,116,000 of the Puget Sound ferry operations account--state appropriation is provided solely for marine insurance. The amount in this subsection as well as the amount in section 103(2) of this act is intended to fully fund a two-year policy. For fiscal year 2012, the office of financial management shall increase the deductible to ten million dollars and reduce components of the policy in order to keep the total cost of the two-year policy at or below the appropriation in this subsection and section 103(2) of this act.

(3) \$840,000 of the motor vehicle account--state appropriation is provided out of funds set aside out of statewide fuel taxes distributed to counties according to RCW 46.68.120(3) solely for the office of financial management to contract with the Washington state association of counties to identify, evaluate, and implement performance measures associated with county transportation activities. The performance measures must include, at a minimum, those related to safety, system preservation, mobility, environmental protection, and project completion. A report on the county transportation performance implementation project must be provided to the transportation committees of the legislature by December 31, 2012.

~~((6))~~ (4) \$169,000 of the motor vehicle account--state appropriation is provided solely for the office of regulatory assistance integrated permitting project.

~~((7))~~ (5) \$40,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the state's share of the marine salary survey.

~~((8))~~ (6) The office of financial management shall study the available data regarding statewide transit, bicycle, and pedestrian trips and recommend additional performance measures that will effectively measure the state's performance in increasing transit ridership and bicycle and pedestrian trips. The office of financial management shall report its findings and recommendations to the transportation committees of the legislature by November 15, 2011, and integrate the new performance measures into the report prepared by the office of financial management pursuant to RCW 47.04.280 regarding progress towards achieving Washington state's transportation system policy goals.

(7) \$350,000 of the multimodal transportation account--state appropriation is provided solely for the office of financial management to contract with a statewide organization representing Washington cities and a statewide organization representing Washington counties to work with the Washington state governor's office of regulatory assistance to:

(a) Fulfill completion of recent iPRMT enhancements developed to consolidate applications and expedite local, state, and regional transportation and public works maintenance permitting related to (i) general hydraulic project approval permits issued consistent with section 103(3), chapter 247, Laws of 2010 and (ii) section 106 consultations completed under the national historic preservation act;

(b) Work with local, state, and regional transportation and public works maintenance agencies to continue to support development of iPRMT enhancements and customizations based on applicant needs; and

(c) Provide outreach and training to advance the state's interest in continuing to leverage iPRMT web infrastructure to support and

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accelerate local, regional, and state transportation and public works planning, permitting, and compliance.

(8) \$400,000 of the motor vehicle account--state appropriation is from the cities statewide fuel tax distributions under RCW 46.68.110(2) for the department of transportation to contract with the department of fish and wildlife to inventory, assess, and prioritize fish passage barriers associated with city roads and streets in the Puget Sound region. The department of transportation shall submit the results to the office of financial management and the transportation committees of the legislature by December 31, 2013.

(9) The office of financial management through the chief information officer shall conduct a technical review of the Washington state patrol's conversion to narrowbanding and the decision to utilize the United States department of justice's integrated wireless network for that transition. The technical review must include an analysis of whether the conversion constitutes an appropriate opportunity for the state to leverage existing infrastructure, mitigates any communication gaps, provides for a risk mitigation strategy, provides opportunities to move to future emerging technologies, and is consistent with the elements of the chief information officer's state technology strategy. The chief information officer must provide a report of findings to the joint transportation committee by September 1, 2012. The recommendations must include any essential elements of the conversion that are necessary to ensure the existence of a comprehensive, interoperable, and reliable communication system within the United States department of justice's integrated wireless network with appropriate risk mitigation plans in place.

**NEW SECTION. Sec. 103.** A new section is added to 2011 c 367 (uncodified) to read as follows:

FOR THE DEPARTMENT OF ENTERPRISE SERVICES

Motor Vehicle Account--State Appropriation .....	\$462,000
Puget Sound Ferry Operations Account--State	
Appropriation .....	\$3,360,000
TOTAL APPROPRIATION.....	\$3,822,000

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

(1) \$462,000 of the motor vehicle account--state appropriation is provided solely for the transportation executive information system.

(2) \$3,360,000 of the Puget Sound ferry operations account--state appropriation is provided solely for marine insurance. The amount in this subsection as well as the amount in section 102(2) of this act is intended to fully fund a two-year policy. For fiscal year 2013, the department of enterprise services shall increase the deductible to ten million dollars and reduce components of the policy in order to keep the total cost of the two-year policy at or below the appropriation in this subsection and section 102(2) of this act.

**NEW SECTION. Sec. 104.** A new section is added to 2011 c 367 (uncodified) to read as follows:

FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

Puget Sound Ferry Operations Account--State	
Appropriation .....	\$75,000

The appropriation in this section is subject to the following conditions and limitations: \$75,000 of the Puget Sound ferry operations account--state appropriation is provided solely for implementing chapter 16, Laws of 2011 1st sp. sess. (Washington state ferry system). \$43,200 of the appropriation is provided solely for closing out the marine employees' commission lease agreement in fiscal year 2012, and the remainder of the appropriation is provided solely for costs associated with marine employees' commission commissioner payments and travel.

**Sec. 105.** 2011 c 367 s 105 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

Motor Vehicle Account--State Appropriation .....	(\$1,210,000)
.....	\$1,185,000

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

(1) \$351,000 of the motor vehicle account--state appropriation is provided solely for costs associated with the motor fuel quality program.

(2) \$686,000 of the motor vehicle account--state appropriation is provided solely to test the quality of biofuel. The department must test fuel quality at the biofuel manufacturer, distributor, and retailer.

**Sec. 106.** 2011 c 367 s 106 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Motor Vehicle Account--State Appropriation .....	(\$513,000)
.....	\$494,000

**TRANSPORTATION AGENCIES—OPERATING**

**Sec. 201.** 2011 c 367 s 201 (uncodified) is amended to read as follows:

FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION

Highway Safety Account--State Appropriation.....	(\$3,003,000)
.....	\$2,983,000
Highway Safety Account--Federal Appropriation....	(\$42,625,000)
.....	\$42,507,000
Highway Safety Account--Private/Local Appropriation .....	\$50,000
School Zone Safety Account--State Appropriation .....	\$3,340,000
TOTAL APPROPRIATION.....	(\$49,018,000)
.....	\$48,880,000

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

(1) \$1,673,900 of the highway safety account--federal appropriation is provided solely for the conclusion of the target zero trooper pilot program, which the commission has developed and implemented in collaboration with the Washington state patrol. The pilot program must continue to demonstrate the effectiveness of intense, high visibility, driving under the influence enforcement in Washington. The commission shall continue to apply to the national highway traffic safety administration for federal highway safety grants to cover the cost of the pilot program. State funding is provided in section 207 of this act for the state patrol to continue the target zero trooper program in fiscal year 2013.

(2) The commission may oversee pilot projects implementing the use of automated traffic safety cameras to detect speed violations within cities west of the Cascade mountains that have a population over one hundred ninety-five thousand. For the purposes of pilot projects in this subsection, no more than one automated traffic safety camera may be used to detect speed violations within any one jurisdiction.

(a) The commission shall comply with RCW 46.63.170 in administering the pilot projects.

(b) In order to ensure adequate time in the 2011-2013 fiscal biennium to evaluate the effectiveness of the pilot projects, any projects authorized by the commission must be authorized by December 31, 2011.

(c) By January 1, 2013, the commission shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding automated traffic safety cameras demonstrated by the pilot projects.

(3) \$460,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter ... (Engrossed Second Substitute House Bill No. 1789), Laws of 2011 (addressing DUI accountability). If chapter ... (Engrossed Second Substitute House Bill No. 1789), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(4) The commission shall conduct a review of the literature on potential safety benefits realized from drivers using their headlights and windshield wipers simultaneously and shall report to the transportation committees of the legislature by December 1, 2011.

(5) \$22,000,000 of the highway safety account--federal appropriation is provided solely for federal funds that may be obligated to the commission pursuant to 23 U.S.C. Sec. 164 during the 2011-2013 fiscal biennium.

**Sec. 202.** 2011 c 367 s 202 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Rural Arterial Trust Account--State Appropriation.....	(\$948,000))
.....	\$915,000
Motor Vehicle Account--State Appropriation .....	(\$2,161,000))
.....	\$2,088,000
County Arterial Preservation Account--State	
Appropriation.....	(\$1,480,000))
.....	\$1,428,000
TOTAL APPROPRIATION.....	(\$4,589,000))
.....	\$4,431,000

The appropriations in this section are subject to the following conditions and limitations: The county road administration board shall submit a report to the transportation committees of the legislature by December 1, 2011, on the implementation of the recommendations that resulted from the evaluation of efficiencies in the delivery of transportation funding and services to local governments that was required under section 204(8), chapter 247, Laws of 2010. The report must include a description of how recommendations were implemented, what efficiencies were achieved, and an explanation of any recommendations that were not implemented.

**Sec. 203.** 2011 c 367 s 203 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD

Transportation Improvement Account--State	
Appropriation.....	(\$3,707,000))
.....	\$3,625,000

The appropriation in this section is subject to the following conditions and limitations: The transportation improvement board shall submit a report to the transportation committees of the legislature by December 1, 2011, on the implementation of the recommendations that resulted from the evaluation of efficiencies in the delivery of transportation funding and services to local governments that was required under section 204(8), chapter 247, Laws of 2010. The report must include a description of how recommendations were implemented, what efficiencies were achieved, and an explanation of any recommendations that were not implemented.

**Sec. 204.** 2011 c 367 s 204 (uncodified) is amended to read as follows:

FOR THE JOINT TRANSPORTATION COMMITTEE

Motor Vehicle Account--State Appropriation.....	(\$2,060,000))
.....	\$2,028,000

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

(1) \$200,000 of the motor vehicle account--state appropriation is for a study of Washington state ferries fares that recommends the most appropriate fare media for use with the reservation system and the implementation of demand management pricing and interoperability with other payment methods. The study must

include direct collaboration with transportation commission members.

~~((3))~~ (2) \$200,000 of the motor vehicle account--state appropriation is from the cities statewide fuel tax distributions under RCW 46.68.110(2) for the joint transportation committee to study and make recommendations on RCW 90.03.525. The study must include: (a) An inventory of state highways subject to the federal clean water act (40 C.F.R. Parts 122 through 124) (national pollutant discharge elimination system) that are within city boundaries; (b) a survey of cities that impose storm water fees or charges to the department of transportation, or otherwise manage storm water runoff from state highways within their jurisdiction; (c) case studies from a representative cross-section of cities on how the department and cities have used RCW 90.03.525; and (d) recommendations on how to achieve efficiencies in the cost and management of state highway storm water runoff within cities under RCW 90.03.525.

~~((4))~~ (3) \$425,000 of the motor vehicle account--state appropriation is for the joint transportation committee to conduct a study to evaluate the potential for financing state transportation projects using public-private partnerships. The study must compare the costs, advantages, and disadvantages of various forms of public-private partnerships with conventional financing. Projects to be evaluated include Interstate 405, state route number 509, state route number 167, the Columbia River crossing, and the Monroe bypass. At a minimum, the study must identify the public interest in the financing and construction of transportation projects, the public interest in the operation of transportation projects, and the provisions in public-private partnership agreements that best protect the public interest. To the extent possible, the study must identify the lowest-cost and best-value model for each project that best protects the public interest. In addition, the study must evaluate whether public-private partnerships serve the defined public interest including, but not limited to, the advantage and disadvantage of risk allocation, the effects of private versus public financing on the state's bonding capacity, the state's ability to retain public ownership of the asset, the process that would allow for the most transparency during the negotiation of terms of a public-private partnership agreement, and the state's ability to oversee the private entity's management of the asset. The study must identify any barriers to the implementation of funding models that best protect the public interest, including statutory and constitutional barriers. The committee shall issue a report of its evaluation to the house of representatives and senate transportation committees by December 16, 2011.

~~((5))~~ (4) \$100,000 of the motor vehicle account--state appropriation is for an investigation of the use of liquid natural gas on existing Washington state ferry vessels as well as the 144-car class vessels and report to the legislature by December 31, 2011.

(5) The joint transportation committee shall convene a study group to evaluate the most appropriate organization for the aviation search and rescue program, currently operating from the department of transportation's aviation division. The joint transportation committee shall invite a representative from the following organizations to participate in meetings in the city of Olympia: The aircraft owners and pilots association; the Washington pilots association; the Washington wing of the civil air patrol; the civil air patrol - United States air force; the Washington department of transportation, aviation division; the emergency management division of the military department; the Washington association of search and rescue; and the Washington state patrol. The committee shall issue a report of its findings to the legislature by December 14, 2012, to include the following information:

(a) Where should aviation search and rescue operations be located to provide the maximum benefit for these searches?

(b) How should the duplication of services and training be addressed?

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(c) Is the current structure the best use of state and federal funding?

(d) If aviation search and rescue is relocated, what should be the source of funding?

(6) The joint transportation committee shall convene a series of meetings between representatives of the Washington state ferries and British Columbia ferries services as well as the respective shipyard contractors for new vessel construction for each system. The purpose of the meetings is to explore joint procurement of additional 144-car capacity ferry vessels for use in either ferry system. Benefits from this joint procurement include, but are not limited to, construction savings accruing to both ferry systems due to the economies of scale of purchasing multiple vessels, additional relief vessel capacity available to both ferry systems, and enhanced service on the international route connecting Washington and British Columbia.

(7) The Columbia River Crossing bridge project is a major initiative to address congestion problems on Interstate 5 between Portland, Oregon and Vancouver, Washington that requires support by not only the governors of both states but the legislatures as well. The joint transportation committee must convene a subcommittee for legislative oversight of the I-5/Columbia River Crossing bridge replacement project. The Columbia River Crossing legislative oversight subcommittee must be made up of six members, two appointed by the chair and ranking member of the senate transportation committee, two appointed by the chair and ranking member of the house of representatives transportation committee, one designee of the governor, and one citizen jointly appointed by the four members of the joint transportation executive committee. The citizen appointee must be a Washington state resident of the area served by the bridge. At least two of the legislative members must be from the legislative districts served by the bridge. In addition to reviewing project and financing information, the subcommittee must also coordinate with the Oregon legislative oversight committee for the Columbia River Crossing bridge.

(8)(a) The joint transportation committee shall convene a study group to evaluate the effectiveness, transparency, and priorities by which the department of transportation expends federal transportation funds. The study group must include representatives from the department of transportation, the office of financial management, and local representatives of the federal highway administration. The study group shall make recommendations on how to:

- (i) Make the process for programming federal funds more transparent;
- (ii) Evaluate assumptions used to predict the availability of federal funds in future biennia and how those funds will be programmed between different federal funding programs;
- (iii) Develop a process for linking statewide priorities to distributing federal funds from project savings and the redistribution of federal funds from other states; and
- (iv) Develop a process for incorporating stakeholder feedback when developing federal grant and loan applications.

(b) The joint transportation committee shall issue a report of its evaluation to the house of representatives and senate transportation committees by December 16, 2012.

(9) Within the amounts provided in this section, the joint transportation committee shall conduct research to evaluate the fiscal health of public transportation in Washington. With the assistance of staff from the standing transportation committees of the legislature, the joint transportation committee shall collect and review known and conventional sources of transit financial and operational data as it pertains to Washington transit entities. The joint transportation committee shall evaluate changes to the fiscal and operational status of transit entities over the last fifteen years.

The joint transportation committee shall compare fiscal results in aggregate during selected years of the time period examined with state funding for transportation in the same years. The joint transportation committee shall report its findings to the standing transportation committees of the legislature by December 1, 2012.

**Sec. 205.** 2011 c 367 s 205 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account--State Appropriation .....	(\$2,142,000)
.....	\$3,028,000
Multimodal Transportation Account--State Appropriation	\$112,000
TOTAL APPROPRIATION.....	(\$2,254,000)
.....	\$3,140,000

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

(1) Consistent with RCW 43.135.055, 47.60.290, and 47.60.315, during the 2011-2013 fiscal biennium, the legislature authorizes the transportation commission to periodically review and, if necessary, adjust the schedule of fares for the Washington state ferry system only in amounts not greater than those sufficient to generate the amount of revenue required by the biennial transportation budget. When adjusting ferry fares, the commission must consider input from affected ferry users by public hearing and by review with the affected ferry advisory committees, in addition to the data gathered from the current ferry user survey.

(2) Consistent with RCW 43.135.055 and 47.46.100, during the 2011-2013 fiscal biennium, the legislature authorizes the transportation commission to periodically review and, if necessary, adjust the schedule of toll charges applicable to the Tacoma Narrows bridge only in amounts not greater than those sufficient to support (a) any required costs for operating and maintaining the toll bridge, including the cost of insurance, (b) any amount required by law to meet the redemption of bonds and applicable interest payments, and (c) repayment of the motor vehicle fund.

~~((4))~~ (3) Consistent with its authority in RCW 47.56.840, the transportation commission shall consider the need for a citizen advisory group that provides oversight on new tolled facilities.

(4) \$775,000 of the motor vehicle account--state appropriation is provided solely to determine the feasibility of transitioning from the gas tax to a road user assessment system of paying for transportation.

(a) The transportation commission, with direction from the steering committee created in (b) of this subsection, must: Review relevant reports and data related to models of road user assessments and methods of transitioning to a road user assessment system; analyze the research to identify issues for policy decisions in Washington; make recommendations for the design of systemwide trials; develop a plan to assess public perspectives and educate the public on the current transportation funding system and options for a new system; and perform other tasks as deemed necessary by the steering committee.

(b) The transportation commission must convene a steering committee to provide direction to and guide the transportation commission's work. Membership of the steering committee must include, but is not limited to, members representing the following interests: The trucking industry; business; cities and counties; public transportation; environmental; user fee technology; auto and light truck manufacturers; and the motoring public. In addition, a member from each of the two largest caucuses of the senate, appointed by the president of the senate, and a member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives, must serve on the steering committee.

(c) The transportation commission must update the governor and the legislature on this work by January 1, 2013. In addition,

this update must include a plan and budget request for work to be completed during the 2013-2015 fiscal biennium.

(5) \$160,000 of the motor vehicle account--state appropriation is provided solely for the transportation commission to establish a statewide transportation survey panel and conduct two surveys on transportation funding and policy issues during the 2011-2013 fiscal biennium. At a minimum, the results of the first survey must be submitted to the legislature by January 2013.

**Sec. 206.** 2011 c 367 s 206 (uncodified) is amended to read as follows:

**FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**

Motor Vehicle Account--State Appropriation .....((~~\$702,000~~))  
 .....\$781,000

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

(1) \$100,000 of the motor vehicle account--state appropriation is provided solely for an additional staff person for the freight mobility strategic investment board.

(2) The freight mobility strategic investment board shall submit a report to the transportation committees of the legislature by December 1, 2011, on the implementation of the recommendations that resulted from the evaluation of efficiencies in the delivery of transportation funding and services to local governments that was required under section 204(8), chapter 247, Laws of 2010. The report must include a description of how recommendations were implemented, what efficiencies were achieved, and an explanation of any recommendations that were not implemented.

Sec. 207. 2011 c 367 s 207 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL**

((Vehicle Licensing Fraud Account--State Appropriation .....  
 .....\$100,000))

Multimodal Transportation Account--State Appropriation .....  
 .....\$132,000

Ignition Interlock Device Revolving Account--  
 State Appropriation .....\$212,000

State Patrol Highway Account--State  
 Appropriation .....((~~\$349,812,000~~))  
 .....\$350,605,000

State Patrol Highway Account--Federal  
 Appropriation .....\$10,903,000

State Patrol Highway Account--Private/Local  
 Appropriation .....((~~\$3,369,000~~))  
 .....\$3,494,000

Highway Safety Account--State Appropriation.....\$432,000

**TOTAL APPROPRIATION**.....((~~\$364,184,000~~))  
 .....\$365,778,000

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

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol must be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol. Cessna pilots funded from the state patrol highway account who are certified to fly the King Airs may pilot those aircraft for general fund purposes with the general fund reimbursing the state patrol highway account an hourly rate to cover the costs incurred during the flights since the aviation section is no longer part of the Washington state patrol cost allocation system as of July 1, 2009.

(2) The Washington state patrol shall continue to collaborate with the Washington traffic safety commission on the target zero trooper pilot program referenced in section 201(1) of this act.

(3) \$370,000 of the state patrol highway account--state appropriation is provided solely for costs associated with the pilot program described under section 216(5) of this act. The Washington state patrol may incur costs related only to the assignment of cadets and necessary computer equipment and to the reimbursement of the Washington state department of transportation for contract costs. The appropriation in this subsection must be funded from the portion of the automated traffic safety camera fines deposited into the state patrol highway account; however, if the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach three hundred seventy thousand dollars, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program. The Washington state patrol may not incur overtime as a result of this pilot program. The Washington state patrol shall not assign troopers to operate or deploy the pilot program equipment used in the roadway construction zones.

(4) ((~~\$12,655,000~~)) \$12,160,000 of the total appropriation is provided solely for automobile fuel in the 2011-2013 fiscal biennium. The Washington state patrol shall analyze their fuel consumption and submit a report to the legislative transportation committees by December 31, 2011, on fuel conservation methods that could be used to minimize costs and ensure that the Washington state patrol is managing fuel consumption effectively.

(5) ((~~\$7,421,000~~)) \$7,672,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(6) ((~~\$6,611,000~~)) \$6,686,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(7) \$1,724,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the Washington state patrol.

(8) \$1,200,000 of the total appropriation is provided solely for outfitting officers. The Washington state patrol shall prepare a cost-benefit analysis of the standard trooper uniform as compared to a battle dress uniform and uniforms used by other states and jurisdictions. The Washington state patrol shall report the results of the analysis to the transportation committees of the legislature by December 1, 2011.

(9) The Washington state patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the office of financial management and transportation committees of the legislature by September 30th of each year.

(10) During the 2011-2013 fiscal biennium, the Washington state patrol shall continue to perform traffic accident investigations on Thurston county roads, and shall work with Thurston county to transition the traffic accident investigations on Thurston county roads to Thurston county by July 1, 2013.

(11) ((~~\$100,000~~ of the vehicle licensing fraud account--state appropriation is provided solely to support the transportation portion of the vehicle license fraud program during the 2011-2013 fiscal biennium)) \$2,187,000 of the state patrol highway account--state appropriation is provided solely for mobile office platforms.

(12) \$2,731,000 of the state patrol highway account--state appropriation is provided solely for the continuation of the target zero trooper program.

(13) \$432,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter . . . (Second Substitute House Bill No. 2443), Laws of 2012 (DUI accountability). If chapter . . . (Second Substitute House Bill No.

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2443), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses. Additionally, the total highway safety account--state appropriation in this section assumes the revenue generated by the fees that the Washington state patrol is authorized to charge manufacturers, technicians, and other providers under Second Substitute House Bill No. 2443. Within the amounts provided in this subsection is funding for three additional troopers to provide oversight of the ignition interlock industry.

(14) \$212,000 of the ignition interlock device revolving account--state appropriation is provided solely for two additional troopers to provide oversight of the ignition interlock industry. If chapter . . . (Second Substitute House Bill No. 2443), Laws of 2012 is enacted by June 30, 2012, the amount provided in this subsection lapses.

(15) \$132,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute House Bill No. 1820), Laws of 2012 (blue alert system). If chapter . . . (Engrossed Substitute House Bill No. 1820), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses.

Sec. 208. 2011 c 367 s 208 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

Marine Fuel Tax Refund Account--State Appropriation.....	\$32,000
Motorcycle Safety Education Account--State	
Appropriation.....	(\$4,411,000))
.....	\$4,367,000
Wildlife Account--State Appropriation .....	(\$859,000))
.....	\$826,000
Highway Safety Account--State Appropriation.....	(\$149,904,000))
.....	\$148,666,000
Highway Safety Account--Federal Appropriation.....	(\$2,884,000))
.....	\$4,299,000
Highway Safety Account--Private/Local Appropriation ....	\$200,000
Motor Vehicle Account--State Appropriation .....	(\$78,586,000))
.....	\$76,511,000
Motor Vehicle Account--Private/Local Appropriation	
.....	(\$1,721,000))
.....	\$1,714,000
Motor Vehicle Account--Federal Appropriation	(\$242,000))
.....	\$380,000
Department of Licensing Services Account--State	
Appropriation .....	(\$5,815,000))
.....	\$6,095,000
Ignition Interlock Device Revolving Account--State	
Appropriation .....	(\$1,315,000))
.....	\$1,971,000
TOTAL APPROPRIATION.....	(\$245,769,000))
.....	\$245,061,000

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

(1) ((\$62,000 of the motor vehicle account--state appropriation is provided solely for the implementation of chapter ... (Engrossed Substitute Senate Bill No. 5251), Laws of 2011 (electric vehicle fee). If chapter ... (Engrossed Substitute Senate Bill No. 5251), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

(2)) \$231,000 of the motor vehicle account--state appropriation is provided solely for the implementation of chapter ... (Substitute Senate Bill No. 5800), Laws of 2011 (off-road motorcycles). If chapter ... (Substitute Senate Bill No. 5800), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

((3)) (2) \$193,000 of the department of licensing services account--state appropriation is provided solely for a phased

implementation of chapter ... (Substitute House Bill No. 1046), Laws of 2011 (vehicle and vessel quick titles). Funding is contingent upon revenues associated with the vehicle and vessel quick title program paying all direct and indirect expenditures associated with the department's implementation of this subsection. If chapter ... (Substitute House Bill No. 1046), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

((4) The department may seek federal funds to implement a driver's license and identicaid biometric matching system pilot program to verify the identity of applicants for, and holders of, drivers' licenses and identicards if applicants are provided the opportunity to opt out of participating in the program, which meets the requirement of RCW 46.20.037 that such a program be voluntary. If funds are received, the department shall report any benefits or problems identified during the course of the pilot program to the transportation committees of the legislature upon the completion of the program.

(5) \$1,938,000)) (3) \$4,299,000 of the highway safety account--federal appropriation is for federal funds that may be received during the 2011-2013 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

((6)) (4) By December 31, 2011, the department shall submit to the office of financial management and the transportation committees of the legislature draft legislation that rewrites the tow truck statutes (chapter 46.55 RCW) in plain language and is revenue and policy neutral.

((7)) (5) \$128,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter ... (Engrossed Substitute House Bill No. 1635), Laws of 2011 (driver's license exams). If chapter ... (Engrossed Substitute House Bill No. 1635), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

((8)) (6) \$68,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter ... (Engrossed Second Substitute House Bill No. 1789), Laws of 2011 ((driving under the influence)) (addressing DUI accountability). If chapter ... (Engrossed Second Substitute House Bill No. 1789), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

((9)) (7) \$63,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter ... (Substitute House Bill No. 1237), Laws of 2011 (selective service system). If chapter ... (Substitute House Bill No. 1237), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

((10)) (8) \$340,000 of the motor vehicle account--private/local appropriation is provided solely for the implementation of chapter ... (Engrossed Substitute Senate Bill No. 5457), Laws of 2011 (congestion reduction charge). If chapter ... (Engrossed Substitute Senate Bill No. 5457), Laws of 2011 is not enacted by June 30, 2011, the amount provided in this subsection lapses.

((11)) (9) \$1,738,000 of the department of licensing services account--state appropriation is provided solely for purchasing equipment for field licensing service offices and subagent offices.

(10) \$2,500,000 of the highway safety account--state appropriation is provided solely for information technology field system modernization.

(11) \$963,000 of the highway safety account--state appropriation is provided solely for implementation of chapter 374, Laws of 2011 (limousine carriers) and chapter 298, Laws of 2011 (master license service program).

(12) \$99,000 of the motor vehicle account--state appropriation

is provided solely for the implementation of chapter . . . (Substitute House Bill No. 2299), Laws of 2012 (special license plates). If chapter . . . (Substitute House Bill No. 2299), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses.

(13) \$174,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter . . . (Substitute Senate Bill No. 6075), Laws of 2012 (vehicle owner information). If chapter . . . (Substitute Senate Bill No. 6075), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses. Additionally, the total appropriation in this section assumes the revenue generated by the fee established in Substitute Senate Bill No. 6075. Within the amounts provided in this subsection, the department must improve on the information that the department makes publicly available to victims of domestic violence and sexual assault on how to better protect their personal information, especially their residential addresses. Specifically, the department must provide a link to the secretary of state's address confidentiality program web site. The department also must provide information regarding a person's ability to provide a mailing address in addition to the person's residential address when registering a vehicle with the department.

(14) \$289,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute Senate Bill No. 6150), Laws of 2012 (facial recognition matching system). If chapter . . . (Engrossed Substitute Senate Bill No. 6150), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses.

(15) \$397,000 of the highway safety account--state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute Senate Bill No. 6284), Laws of 2012 (civil traffic infractions). If chapter . . . (Engrossed Substitute Senate Bill No. 6284), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses. Additionally, the total highway safety account--state appropriation in this section assumes the revenue generated by the policy changes in chapter . . . (Engrossed Substitute Senate Bill No. 6284), Laws of 2012.

(16) \$222,000 of the motor vehicle account--state appropriation and \$36,000 of the highway safety account--state appropriation are provided solely for the implementation of chapter . . . (Engrossed Substitute Senate Bill No. 6455), Laws of 2012 (transportation revenue). If chapter . . . (Engrossed Substitute Senate Bill No. 6455), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses.

(17) \$274,000 of the motor vehicle account--state appropriation is provided solely for the implementation of chapter . . . (Engrossed Substitute Senate Bill No. 6582), Laws of 2012 (local transportation revenue options). If chapter . . . (Engrossed Substitute Senate Bill No. 6582), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses.

(18) Within the amounts provided in this section, the department must develop a transition plan for moving to a paperless renewal notice for drivers' licenses and vehicle registrations. The plan must consider people that do not have access to the internet and must include an opportunity for people to opt-in to a paper renewal notice. Prior to the implementation of a paperless renewal system, the department must consult with the joint transportation committee.

(19) Within existing resources, the department shall develop a plan to transition to a ten-year license plate replacement cycle. At a minimum, the plan must include the following provisions: (a) A ten-year replacement cycle for license plates only on vehicles that are subject to annual vehicle registration renewal; (b) a requirement that new license plates and registration, including all fees and taxes due upon annual registration, are required when a vehicle changes ownership, except when a vehicle is sold to a vehicle dealer for resale, in which case they are due only when the dealer sells the

vehicle; (c) an original issue license plate fee that is equal to the current license plate replacement fee; and (d) an estimate of the plan's costs to implement and revenues generated. The department shall submit the plan with draft legislation implementing the plan to the transportation committees of the legislature by December 31, 2012.

(20) Consistent with RCW 43.135.055 and 43.24.086, during the 2011-2013 fiscal biennium, the legislature authorizes the department to adjust the business and vehicle fees for the for hire licensing program in amounts sufficient to recover the costs of administering the for hire licensing program.

(21) The legislature intends to establish a veteran designation for drivers' licenses and identicards issued under chapter 46.20 RCW, as proposed under House Bill No. 2378, during the 2013 legislative session. The designation would serve to establish a person's service in the armed forces and be granted to a person who provides a United States department of defense discharge document, DD Form 214, that shows a discharge status of "honorable" or "general under honorable conditions." The department shall report to the transportation committees of the legislature by December 1, 2012, with a plan to implement the designation. The plan must include the most cost-effective options for implementation, a proposed fee amount to cover the costs of the designation, and any other recommendations on the implementation of the designation.

(22) \$59,000 of the motor vehicle account--state appropriation is provided solely for the implementation of chapter . . . (Substitute House Bill No. 2312), Laws of 2012 (military service award emblems). If chapter . . . (Substitute House Bill No. 2312), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses.

(23) \$656,000 of the ignition interlock device revolving account--state appropriation is provided solely for the implementation of chapter . . . (Second Substitute House Bill No. 2443), Laws of 2012 (DUI accountability). If chapter . . . (Second Substitute House Bill No. 2443), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses.

(24) \$134,000 of the highway safety account--state appropriation and \$134,000 of the motor vehicle account--state appropriation are provided solely for the implementation of chapter . . . (Engrossed Second Substitute House Bill No. 2373), Laws of 2012 (state recreational resources). If chapter . . . (Engrossed Second Substitute House Bill No. 2373), Laws of 2012 is not enacted by June 30, 2012, the amount provided in this subsection lapses.

**Sec. 209.** 2011 c 367 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TOLL OPERATIONS AND MAINTENANCE--PROGRAM B**

High Occupancy Toll Lanes Operations Account--State	
Appropriation .....	(\$1,295,000))
.....	\$1,276,000
Motor Vehicle Account--State Appropriation.....	(\$550,000))
.....	\$538,000
Tacoma Narrows Toll Bridge Account--State	
Appropriation .....	(\$23,429,000))
.....	\$23,365,000
State Route Number 520 Corridor Account--State	
Appropriation .....	\$27,295,000
State Route Number 520 Civil Penalties	
Account--State Appropriation.....	(\$4,622,000))
.....	\$3,622,000
<b>TOTAL APPROPRIATION.....</b>	<b>(\$57,191,000))</b>
.....	\$56,096,000

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

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(1) The department shall make detailed quarterly expenditure reports available to the transportation commission and to the public on the department's web site using current department resources. The reports must include a summary of toll revenue by facility on all operating toll facilities and high occupancy toll lane systems, and an itemized depiction of the use of that revenue.

(2) ~~(\$4,622,000)~~ \$3,622,000 of the state route number 520 civil penalties account--state appropriation and \$1,458,000 of the Tacoma Narrows toll bridge account--state appropriation are provided solely for expenditures related to the toll adjudication process. All costs associated with the toll adjudication process are anticipated to be covered by revenue collected from the toll adjudication process. The department shall report quarterly on the civil penalty process to the office of financial management and the house of representatives and senate transportation committees beginning September 30, 2011. The reports must include a summary table for each toll facility that includes: The number of notices of civil penalty issued; the number of recipients who pay before the notice becomes a penalty; the number of recipients who request a hearing and the number who do not respond; workload costs related to hearings; the cost and effectiveness of debt collection activities; and revenues generated from notices of civil penalty.

(3) It is the intent of the legislature that transitioning to a statewide tolling operations center and preparing for all-electronic tolling on certain toll facilities will have no adverse revenue or expenditure impact on the Tacoma Narrows toll bridge account. Any increased costs related to this transition shall not be allocated to the Tacoma Narrows toll bridge account. All costs associated with the toll adjudication process are anticipated to be covered by revenue collected from the toll adjudication process.

(4) The department shall ensure that, at no cost to the Tacoma Narrows toll bridge account, new electronic tolling tag readers are installed on the Tacoma Narrows bridge as soon as practicable that are able to read existing and new electronic tolling tags.

(5) \$17,786,000 of the state route number 520 corridor account--state appropriation is provided solely for nonvendor costs associated with tolling the state route number 520 bridge. Funds from the state route number 520 corridor account--state appropriation shall not be used to pay for items prohibited by Executive Order No. 1057, including subscriptions to technical publications, employee educational expenses, professional membership dues and fees, employee recognition and safety awards, meeting meals and light refreshments, commute trip reduction incentives, and employee travel.

**Sec. 210.** 2011 c 367 s 210 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--INFORMATION TECHNOLOGY--PROGRAM C	
Motor Vehicle Account--State Appropriation .....	(\$69,107,000)
.....	\$67,398,000
Transportation Partnership Account--State Appropriation .....	\$1,460,000
Multimodal Transportation Account--State Appropriation .....	\$363,000
Transportation 2003 Account (Nickel Account)--State Appropriation .....	\$1,460,000
TOTAL APPROPRIATION.....	(\$72,390,000)
.....	\$70,681,000

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

(1) The department shall consult with the office of financial management and the department of ~~information~~ enterprise services to: (a) Ensure that the department's current and future

system development is consistent with the overall direction of other key state systems; and (b) when possible, use or develop common statewide information systems to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication.

(2) \$1,460,000 of the transportation partnership account--state appropriation and \$1,460,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for maintaining the department's project management reporting system.

(3) \$210,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

~~((5))~~ (4) \$502,000 of the motor vehicle account--state appropriation is provided solely to provide support for the transportation executive information system.

**Sec. 211.** 2011 c 367 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION--PROGRAM D--OPERATING	
Motor Vehicle Account--State Appropriation .....	(\$25,851,000)
.....	\$25,466,000

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

(1) The department shall submit a predesign proposal for a new traffic management center to the office of financial management consistent with the process followed by nontransportation capital construction projects. The department shall not award a contract for construction of a new traffic management center until the predesign proposal has been submitted and the office of financial management has completed a budget evaluation study that indicates a new building is the recommended option for accommodating additional traffic management operations.

(2) \$850,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

**Sec. 212.** 2011 c 367 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F	
Aeronautics Account--State Appropriation .....	(\$6,066,000)
.....	\$6,002,000
Aeronautics Account--Federal Appropriation .....	\$2,150,000
TOTAL APPROPRIATION.....	(\$8,216,000)
.....	\$8,152,000

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

(1) \$200,000 of the aeronautics account--state appropriation is a reappropriation provided solely to complete runway preservation projects.

(2) The department of transportation's aviation stakeholder forum shall submit a final report regarding the possible move of the aviation division from Arlington, Washington to Olympia, Washington by December 31, 2012, to the legislature. The legislature shall consider the recommendations and make a final determination on the proposed move during the 2013 legislative session. Until that decision has been made, the aviation division must remain in its existing location.

**Sec. 213.** 2011 c 367 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM DELIVERY MANAGEMENT AND SUPPORT--PROGRAM H	
Motor Vehicle Account--State Appropriation .....	(\$47,418,000)

.....	\$45,796,000
Motor Vehicle Account--Federal Appropriation.....	\$500,000
Multimodal Transportation Account--State	
Appropriation.....	\$250,000
TOTAL APPROPRIATION.....	(\$48,168,000)
.....	\$46,546,000

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

(1) (The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in the transportation executive information system. The department shall also provide updated information on six project milestones for projects funded with preexisting funds and that are agreed to by the legislature, office of financial management, and the department, on a quarterly basis.

(2)) \$3,754,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

((3)) (2) It is the intent of the legislature that the real estate services division of the department will recover the cost of its efforts from future sale proceeds.

((4)) (3) The legislature recognizes that the Dryden pit site (WSDOT Inventory Control (IC) No. 2-04-00103) is unused state-owned real property under the jurisdiction of the department of transportation, and that the public would benefit significantly from the complete enjoyment of the natural scenic beauty and recreational opportunities available at the site. Therefore, pursuant to RCW 47.12.080, the legislature declares that transferring the property to the department of fish and wildlife for recreational use and fish and wildlife restoration efforts is consistent with the public interest in order to preserve the area for the use of the public and the betterment of the natural environment. The department of transportation shall work with the department of fish and wildlife, and shall transfer and convey the Dryden pit site to the department of fish and wildlife as is for an adjusted fair market value reflecting site conditions, the proceeds of which must be deposited in the motor vehicle fund. The department of transportation is not responsible for any costs associated with the cleanup or transfer of this property. By July 1, 2011, and annually thereafter until the entire Dryden pit property has been transferred, the department shall submit a status report regarding the transaction to the chairs of the legislative transportation committees.

(4) The legislature recognizes that the trail known as the Apple Capital Loop, and its extensions, serve to separate motor vehicle traffic from pedestrians and bicyclists, increasing motor vehicle safety on existing state route number 28. Consistent with chapter 47.30 RCW and pursuant to RCW 47.12.080, the legislature declares that transferring portions of WSDOT Inventory Control (IC) Nos. 2-09-04537 and 2-09-04569 to Douglas county and the city of East Wenatchee is consistent with the public interest. The legislature directs the department to transfer the property to Douglas county and the city of East Wenatchee. The department must be paid fair market value for any portions of the transferred real property that is later abandoned, vacated, or ceases to be publicly maintained for trail purposes. Douglas county and the city of East Wenatchee must agree to accept responsibility for trail segments within their respective jurisdictions and sign an agreement with the state that the transfer of these parcels to their respective jurisdictions extinguishes any state obligations to improve, maintain, or be in any way responsible for these assets. The department shall report to the transportation committees of the legislature by June 30, 2013, and annually thereafter, on the status of the transfer until complete.

Sec. 214. 2011 c 367 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--ECONOMIC PARTNERSHIPS--PROGRAM K

Motor Vehicle Account--State Appropriation .....	(\$622,000)
.....	\$827,000
Multimodal Transportation Account--State Appropriation	\$110,000
TOTAL APPROPRIATION.....	(\$732,000)
.....	\$937,000

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

(1)(a) \$225,000 of the motor vehicle account--state appropriation is provided solely to carry out work related to assessing the operational feasibility of a road user assessment, including technology, agency administration, multistate and federal standards, and other necessary elements. This work must be carried out under the guidance of the steering committee and in coordination with the transportation commission's policy assessment and public outreach planning authorized in section 205(4) of this act.

(b) If subsequent appropriations are provided, the department may conduct a limited scope pilot project to test the feasibility of a road user assessment system to be applied to electric vehicles. The pilot project must be carried out under the guidance of the steering committee described under section 205(4) of this act and in coordination with the transportation commission.

(2) The department shall conduct a study on the potential to generate revenue from off-premise outdoor advertising signs that are erected or maintained adjacent and visible to the interstate system highways, primary system highways, or scenic system highways. The study must provide an evaluation of the market for outdoor advertising signs, including an evaluation of the number of potential advertisers and the amount charged by other jurisdictions for sign permits, and must provide a recommendation for a revised fee structure that recognizes the market value for off-premise signs and considers charging differential fees based on the size, type, and location of the sign.

(3) The public-private partnerships office must explore retail partnerships at state-owned park-and-ride facilities, as authorized in RCW 47.04.295, and if feasible, solicit proposals to implement a retail partnership pilot project at one park-and-ride facility by June 30, 2013.

Sec. 215. 2011 c 367 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M

Motor Vehicle Account--State Appropriation .....	(\$380,327,000)
.....	\$373,709,000
Motor Vehicle Account--Federal Appropriation .....	\$7,000,000
TOTAL APPROPRIATION.....	(\$387,327,000)
.....	\$380,709,000

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

(1) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account--state appropriation into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(2) \$7,000,000 of the motor vehicle account--state appropriation is provided solely for third-party damages to the highway system where the responsible party is known and reimbursement is anticipated. The department shall request additional appropriation authority for any funds received for reimbursements of third-party damages that are in excess of this appropriation.

(3) \$7,000,000 of the motor vehicle account--federal appropriation is for unanticipated federal funds that may be received during the 2011-2013 fiscal biennium. Upon receipt of the funds,

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the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(4) The department may work with the department of corrections to utilize corrections crews for the purposes of litter pickup on state highways.

(5) \$4,530,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(6) The department shall continue to report maintenance accountability process (MAP) targets and achievements on an annual basis. The department shall use available funding to target and deliver a minimum MAP grade of C for the activity of roadway striping.

(7) \$6,884,000 of the motor vehicle account--state appropriation is provided solely for the high priority maintenance backlog. Addressing the maintenance backlog must result in increased levels of service. If chapter . . . (Engrossed Substitute Senate Bill No. 5251), Laws of 2011 (electric vehicle fee) is not enacted by June 30, 2011, \$500,000 of the appropriation provided in this subsection lapses.

(8) ((\$317,000 of the motor vehicle account--state appropriation is provided solely for maintaining a new active traffic management system on Interstate 5, Interstate 90, and state route number 520.)) The department shall track the costs associated with ((these)) active traffic management systems on a corridor basis and report to the transportation committees of the legislature on the costs and benefits of the systems by December 1, ((2011)) 2012.

**Sec. 216.** 2011 c 367 s 216 (uncodified) is amended to read as follows:

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

Motor Vehicle Account--State Appropriation .....	(\$50,166,000)
.....	\$48,818,000
Motor Vehicle Account--Federal Appropriation.....	\$2,050,000
Motor Vehicle Account--Private/Local Appropriation..	(\$127,000)
.....	\$250,000
TOTAL APPROPRIATION.....	(\$52,343,000)
.....	\$51,118,000

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

(1) \$6,000,000 of the motor vehicle account--state appropriation is provided solely for low-cost enhancements. Of this amount, \$10,000 of the motor vehicle account--state appropriation is provided solely for the department to install additional farm machinery signs to promote safety in agricultural areas along state highways. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By September 1st of each even-numbered year, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(2) \$145,000 of the motor vehicle account--state appropriation is provided solely for the department to continue a pilot tow truck incentive program and to expand the program to other areas of the state. The department may provide incentive payments to towing companies that meet clearance goals on accidents that involve heavy trucks.

(3) During the 2011-2013 fiscal biennium, the department shall implement a pilot program that expands private transportation providers' access to high occupancy vehicle lanes. Under the pilot program, when the department reserves a portion of a highway based on the number of passengers in a vehicle, the following

vehicles must be authorized to use the reserved portion of the highway if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle: (a) Auto transportation company vehicles regulated under chapter 81.68 RCW; (b) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (c) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (d) private employer transportation service vehicles. For purposes of this subsection, "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees. By June 30, 2013, the department shall report to the transportation committees of the legislature on whether private transportation provider use of high occupancy vehicle lanes under the pilot program reduces the speeds of high occupancy vehicle lanes. Nothing in this subsection is intended to authorize the conversion of public infrastructure to private, for-profit purposes or to otherwise create an entitlement or other claim by private users to public infrastructure. If chapter ... (Substitute Senate Bill No. 5836), Laws of 2011 is enacted by June 30, 2011, this subsection is null and void.

(4) \$9,000,000 of the motor vehicle account--state appropriation is provided solely for the department's incident response program.

(5) The department, in consultation with the Washington state patrol, must continue a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways. The department must report to the joint transportation committee by January 1, 2012, and January 1, 2013, on the status of this pilot program. For the purpose of this pilot program, during the 2011-2013 fiscal biennium, a roadway construction zone includes areas where public employees or private contractors may be present or where a driving condition exists that would make it unsafe to drive at higher speeds, such as, when the department is redirecting or realigning lanes on any public roadway pursuant to ongoing construction. The department shall use the following guidelines to administer the program:

(a) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(b) The department shall plainly mark the locations where the automated traffic safety cameras are used by placing signs on locations that clearly indicate to a driver that he or she is entering a roadway construction zone where traffic laws are enforced by an automated traffic safety camera;

(c) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(d) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the patrol, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(e) For purposes of the 2011-2013 fiscal biennium pilot program, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3). However, the amount of the fine issued under this subsection (5) for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars.

The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account; and

(f) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction must be dismissed against the business if it mails to the patrol, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the patrol within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use.

(6) The department shall track the costs associated with active traffic management systems on a corridor basis and report to the transportation committees of the legislature on the cost and benefits of the systems by December 1, 2011.

(7) State university research and extension centers serve as important research hubs for university graduate students and, as such, there is a safety concern with any centers being located on a state highway. Therefore, consistent with RCW 46.61.415, and upon request of a county with a state university research and extension center located on a state highway within its respective jurisdiction, the secretary of transportation shall approve a reduction of the maximum speed limit on the state highway in the vicinity of the center. The speed on the state highway may be less than the maximum speed permitted under RCW 46.61.400(2).

**Sec. 217.** 2011 c 367 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S	
Motor Vehicle Account--State Appropriation .....	(((\$28,430,000))
.....	\$27,389,000
Motor Vehicle Account--Federal Appropriation .....	\$30,000
Multimodal Transportation Account--State Appropriation .....	\$973,000
TOTAL APPROPRIATION .....	(((\$29,433,000))
.....	\$28,392,000

The appropriations in this section are subject to the following conditions and limitations: The department shall utilize existing resources and customer service staff to develop and implement new policies and procedures to ensure compliance with new federal passenger vessel Americans with disabilities act requirements.

**Sec. 218.** 2011 c 367 s 218 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T	
Motor Vehicle Account--State Appropriation .....	(((\$23,394,000))
.....	\$22,304,000
Motor Vehicle Account--Federal Appropriation .....	\$21,885,000
Multimodal Transportation Account--State Appropriation .....	\$662,000
Multimodal Transportation Account--Federal Appropriation .....	\$3,559,000
Multimodal Transportation Account--Private/Local Appropriation .....	\$100,000
TOTAL APPROPRIATION .....	(((\$49,600,000))
.....	\$48,510,000

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

(1) \$70,000 of the motor vehicle account--state appropriation is a reappropriation provided solely for a corridor study of state route number 516 from the eastern border of Maple Valley to state route number 167 to determine whether improvements are needed and the costs of any needed improvements.

(2) \$200,000 of the motor vehicle account--state appropriation is provided solely for extending the freight database pilot project that began in 2009. Global positioning system (GPS) data is intended to help guide freight investment decisions and track highway project effectiveness as it relates to freight traffic.

(3) Within available resources, the department must collaborate with the affected metropolitan planning organizations, regional transportation planning organizations, transit agencies, and private transportation providers to develop a plan to reduce vehicle demand, increase public transportation options, and reduce vehicle miles traveled on corridors affected by growth at Joint Base Lewis-McChord.

(4) As part of their ongoing regional transportation planning, the regional transportation planning organizations across the state shall work together to provide a comprehensive framework for sources and uses of next-stage investments in transportation needed to improve structural conditions and ongoing operations and lay the groundwork for the transportation systems to support the long-term economic vitality of the state. This planning must include all forms of transportation to reflect the state's interests, including: Highways, streets, and roads; ferries; public transportation; systems for freight; and walking and biking systems. The department shall support this planning by providing information on potential state transportation uses and an analysis of potential sources of revenue to implement investments. In carrying out this planning, regional transportation planning organizations must be broadly inclusive of business, civic, labor, governmental, and environmental interests in regional communities across the state.

(5) \$190,000 of the motor vehicle account--state appropriation is provided solely for the regional transportation planning organizations across the state to implement the comprehensive transportation planning and data framework. The framework must provide regional transportation planning organizations with the ability to identify the spatial and temporal status of current and future high priority projects, and the next stage investment necessary to implement those projects. The framework must be accessible to the public and provide transparency and accountability to the regional transportation planning process.

(6) Within existing resources, the department shall work with the department of archaeology and historic preservation to develop a statewide policy regarding the curation of artifacts and the use of museums and information centers as potential mitigation under the national environmental policy act. This policy must address the following issues: How to minimize costs associated with information centers and museums; when to use existing facilities to preserve and display artifacts; how to minimize the time that stand-alone facilities are needed; and how to transfer artifacts and other items to facilities that are not owned or rented by the department. A report regarding this policy must be submitted to the joint transportation committee by September 1, 2012.

**Sec. 219.** 2011 c 367 s 219 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--CHARGES FROM OTHER AGENCIES--PROGRAM U	
Motor Vehicle Account--State Appropriation .....	(((\$85,209,000))
.....	\$74,734,000
Motor Vehicle Account--Federal Appropriation .....	\$400,000
Multimodal Transportation Account--State	

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Appropriation.....	(\$3,320,000))
.....	\$1,798,000
TOTAL APPROPRIATION.....	(\$88,929,000))
.....	\$76,932,000

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

- (1) The ((office of financial management)) department of enterprise services must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.
- (2) Payments in this section represent charges from other state agencies to the department of transportation.
  - ((a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT
 

DIVISION OF RISK MANAGEMENT FEES .....	\$1,639,000
(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR.....	\$937,000
(c) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF GENERAL ADMINISTRATION .....	\$6,060,000
(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL.....	\$6,347,000
(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION .....	\$44,418,000
(f) FOR ARCHIVES AND RECORDS MANAGEMENT .....	\$623,000
(g) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS ENTERPRISES .....	\$1,008,000
(h) FOR USE OF FINANCIAL AND REPORTING SYSTEMS PROVIDED BY THE OFFICE OF FINANCIAL MANAGEMENT .....	\$1,143,000
(i) FOR POLICY AND SYSTEM ASSISTANCE FROM THE DEPARTMENT OF INFORMATION SERVICES.....	\$1,980,000
(j) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE.....	\$8,526,000
(k) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE FOR THE SECOND PHASE OF THE BOLDT LITIGATION .....	\$672,000))
  - (a) TO THE SECRETARY OF STATE--ARCHIVES AND RECORDS MANAGEMENT ..... \$512,000 |
  - (b) TO THE OFFICE OF THE STATE AUDITOR--AUDITOR SERVICES ..... \$488,000 |
  - (c) TO THE OFFICE OF THE ATTORNEY GENERAL--ATTORNEY GENERAL SERVICES ..... \$7,127,000 |
  - (d) TO THE OFFICE OF FINANCIAL MANAGEMENT--LABOR RELATIONS SERVICES ..... \$266,000 |
  - (e) TO THE OFFICE OF FINANCIAL MANAGEMENT--OFFICE OF CHIEF INFORMATION OFFICER..... \$473,000 |
  - (f) TO THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES ..... \$840,000 |
  - (g) TO CONSOLIDATED TECHNICAL SERVICES..... \$182,000 |
  - (h) TO THE DEPARTMENT OF ENTERPRISE SERVICES--HUMAN RESOURCE MANAGEMENT SYSTEM. .... \$3,495,000 |
  - (i) TO THE DEPARTMENT OF ENTERPRISE

SERVICES--PRODUCTION SUPPORT.....	\$974,000
(j) TO THE DEPARTMENT OF ENTERPRISE SERVICES--REAL ESTATE SERVICES .....	\$108,000
(k) TO THE DEPARTMENT OF ENTERPRISE SERVICES--PUBLICATIONS AND HISTORICAL SERVICES.. ..	\$691,000
(l) TO THE DEPARTMENT OF ENTERPRISE SERVICES--CAMPUS RENT .....	\$3,293,000
(m) TO THE DEPARTMENT OF ENTERPRISE SERVICES--CAPITAL PROJECT SURCHARGE .....	\$879,000
(n) TO THE DEPARTMENT OF ENTERPRISE SERVICES--PERSONAL SERVICE CONTRACTS .....	\$100,000
(o) TO THE DEPARTMENT OF ENTERPRISE SERVICES--SECURE FILE TRANSFER SERVICES .....	\$39,000
(p) TO THE DEPARTMENT OF ENTERPRISE SERVICES--ACCESS SERVICES .....	\$179,000
(q) TO THE DEPARTMENT OF ENTERPRISE SERVICES--RISK MANAGEMENT SERVICES .....	\$1,290,000
(r) TO THE DEPARTMENT OF ENTERPRISE SERVICES--INFORMATION TECHNOLOGY SERVICES .....	\$1,557,000

Sec. 220. 2011 c 367 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION--PROGRAM V

Motor Vehicle Account--Federal Appropriation.....	\$160,000
State Vehicle Parking Account--State Appropriation.....	\$452,000
Regional Mobility Grant Program Account--State Appropriation .....	\$48,942,000
Multimodal Transportation Account--State Appropriation .....	(\$41,706,000))
.....	\$42,939,000
Multimodal Transportation Account--Federal Appropriation.....	\$2,582,000
Multimodal Transportation Account--Private/Local Appropriation .....	\$1,027,000
Rural Mobility Grant Program Account--State Appropriation .....	\$17,000,000
TOTAL APPROPRIATION.....	(\$111,709,000))
.....	\$113,102,000

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

- (1) \$25,000,000 of the multimodal transportation account--state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.
  - (a) \$5,500,000 of the ~~((amount provided in this subsection)) multimodal transportation account--state appropriation~~ is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers must be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.
  - (b) \$19,500,000 of the ~~((amount provided in this subsection)) multimodal transportation account--state appropriation~~ is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies must be prorated based on the amount expended for demand response service and route deviated service in calendar year 2009 as reported in the "Summary of Public Transportation - 2009" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) Funds are provided for the rural mobility grant program as follows:

(a) \$8,500,000 of the rural mobility grant program account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the "Summary of Public Transportation - 2009" published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs. If the funding provided in this subsection (2)(a) exceeds the amount required for recipient counties to reach eighty percent of the average per capita sales tax, funds in excess of that amount may be used for the competitive grant process established in (b) of this subsection.

(b) \$8,500,000 of the rural mobility grant program account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

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

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

(c) \$520,000 of the amount provided in this subsection is provided solely for the purchase of additional vans for use by vanpools serving soldiers and civilian employees at Joint Base Lewis-McChord.

(4) \$8,942,000 of the regional mobility grant program account--state appropriation is reappropriated and provided solely for the regional mobility grant projects identified in LEAP Transportation Document ((~~2007-B, as developed April 20, 2007, or LEAP Transportation Document 2009-B, as developed April 24, 2009~~)) 2012-1 ALL PROJECTS -Public Transportation - Program (V) as developed March 8, 2012. The department shall continue to review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. The department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in((~~the LEAP Transportation Document ((2007-B, as developed April 20, 2007; LEAP Transportation Document 2009-B, as developed April 24, 2009; or LEAP Transportation Document 2011-B, as developed April 19, 2011))~~)) referenced in this subsection. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule and that all funds in the regional mobility grant program be used as soon as practicable to advance eligible projects.

(5)(a) \$40,000,000 of the regional mobility grant program account--state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document ((~~2011-B, as developed April 19, 2011~~)) 2012-1 ALL PROJECTS - Public Transportation - Program (V) as developed March 8, 2012. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated.

The department shall promptly close out grants when projects have been completed, and any remaining funds must be used only to fund projects identified in the LEAP Transportation Document ((~~2011-B, as developed April 19, 2011~~)) referenced in this subsection. The department shall provide annual status reports on December 15, 2011, and December 15, 2012, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule.

(b) In order to be eligible to receive a grant under (a) of this subsection during the 2011-2013 fiscal biennium, a transit agency must establish a process for private transportation providers to apply for the use of park and ride facilities. For purposes of this subsection, (i) "private transportation provider" means: An auto transportation company regulated under chapter 81.68 RCW; a passenger charter carrier regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; a private nonprofit transportation provider regulated under chapter 81.66 RCW; or a private employer transportation service provider; and (ii) "private employer transportation service" means regularly scheduled, fixed-route transportation service that is offered by an employer for the benefit of its employees.

(6) \$2,309,000 of the multimodal transportation account--state appropriation is provided solely for the tri-county connection service for Island, Skagit, and Whatcom transit agencies.

(7) \$200,000 of the multimodal transportation account--state appropriation is contingent on the timely development of an annual report summarizing the status of public transportation systems as identified under RCW 35.58.2796.

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

(9) An affected urban growth area that has not previously implemented a commute trip reduction program is exempt from the requirements in RCW 70.94.527 if a solution to address the state highway deficiency that exceeds the person hours of delay threshold has been funded and is in progress during the 2011-2013 fiscal biennium.

(10) \$300,000 of the multimodal transportation account--state appropriation is provided solely for the continuation of state support for the Whatcom smart trips commute trip reduction program.

(11) \$818,000 of the multimodal transportation account--state appropriation is provided solely for state support of the Everett connector bus service.

(12) The department shall contact all transit agencies with a nonvoting member recommended by a labor organization and request information regarding the participation of board members, both voting and nonvoting, for all transit agency meetings in 2012 and the three previous calendar years. The department shall provide a report to the transportation committees of the legislature regarding the findings of this survey, which must include the transit agencies, if any, that refuse to respond either in whole or in part, by January 15, 2013.

(13) \$250,000 of the multimodal transportation account--state appropriation is provided solely for the Clark county public transportation benefit area to comply with the requirements of RCW 81.104.110 regarding the formation of an expert review panel to provide an independent technical review of any plan that relies on any voter-approved local funding options.

(14) \$100,000 of the multimodal transportation account--state appropriation is provided solely for community transit to conduct a federally mandated alternatives analysis study to allow a second swift line to be funded through the federal transit administration's new starts or small starts process.

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(15) \$160,000 of the motor vehicle account--federal appropriation is provided solely for King county metro to study demand potential for a state route number 18 and Interstate 90 park-and-ride location, to size the facilities appropriately, to perform site analysis, and to develop preliminary design concepts.

Sec. 221. 2011 c 367 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X  
Puget Sound Ferry Operations Account--State

Appropriation.....((\$467,773,000))  
.....\$468,135,000

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

(1) The office of financial management budget instructions require agencies to recast enacted budgets into activities. The Washington state ferries shall include a greater level of detail in its 2011-2013 supplemental and 2013-2015 omnibus transportation appropriations act requests, as determined jointly by the office of financial management, the Washington state ferries, and the transportation committees of the legislature. This level of detail must include the administrative functions in the operating as well as capital programs.

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

~~((5))~~ (3) Until a reservation system is operational on the San Juan islands inner-island route, the department shall provide the same priority loading benefits on the San Juan islands inner-island route to home health care workers as are currently provided to patients traveling for purposes of receiving medical treatment.

~~((6))~~ (4) The department shall request from the United States coast guard variable minimum staffing levels on all of its vessels by December 31, 2011.

~~((4))~~ (5) The department shall continue to provide service to Sidney, British Columbia and shall explore the option of purchasing a foreign built vehicle and passenger ferry vessel either with safety of life at sea (SOLAS) certification or the ability to be retrofitted for SOLAS certification to operate solely on the Anacortes to Sidney, British Columbia route currently served by vessels of the Washington state ferries fleet. The vessel should have the capability of carrying at least one hundred standard vehicles and approximately four hundred to five hundred passengers. Further, the department shall explore the possibilities of contracting a commercial company to operate the vessel exclusively on this route so long as the contractor's employees assigned to the vessel are represented by the same employee organizations as the Washington state ferries. The department shall report back to the transportation committees of the legislature regarding: The availability of a vessel; the cost of the vessel, including transport to the Puget Sound region; and the need for any statutory changes for the operation of the Sydney, British Columbia service by a private company.

~~((1))~~ (6) For the 2011-2013 fiscal biennium, the department of transportation may enter into a distributor controlled fuel hedging program and other methods of hedging approved by the fuel hedging committee.

~~((12))~~ (12) The department shall target service reductions totaling \$4,000,000, such that the shortening of shoulder seasons and eliminations of off-peak runs on all routes are considered. Prior to implementing the reductions, the department shall consult with ferry employees and ferry advisory committees to determine which reductions would impact the fewest number of riders. The reductions must be identified and implementation must begin no later than the fall 2011 schedule.

(13) \$135,248,000) (7) \$136,648,000 of the Puget Sound ferry

operations account--state appropriation is provided solely for auto ferry vessel operating fuel in the 2011-2013 fiscal biennium. The amount provided in this appropriation represents the fuel budget for the purposes of calculating any ferry fare fuel surcharge.

~~((4))~~ (8) \$150,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the department to increase recreation and tourist ridership by entering into agreements for marketing and outreach strategies with local economic development agencies. The department shall identify the number of tourist and recreation riders on the applicable ferry routes both before and after implementation of marketing and outreach strategies developed through the agreements. The department shall report results of the marketing and outreach strategies to the transportation committees of the legislature by October 15, 2012.

~~((5))~~ (9) The Washington state ferries shall participate in the facilities plan included in section 604 of this act and shall include an investigation and identification of less costly relocation options for the Seattle headquarters office. The department shall include relocation options for the Washington state ferries Seattle headquarters office in the facilities plan. Until September 1, 2012, the department may not enter into a lease renewal for the Seattle headquarters office.

~~((6))~~ (10) The department, office of financial management, and transportation committees of the legislature shall make recommendations regarding an appropriate budget structure for the Washington state ferries. The recommendation may include a potential restructuring of the Washington state ferries budget. The recommendation must facilitate transparency in reporting and budgeting as well as provide the opportunity to link revenue sources with expenditures. Findings and recommendations must be reported to the office of financial management and the joint transportation committee by September 1, 2011.

~~((7))~~ (11) Two Kwa-di-tabil class ferry vessels must be placed on the Port Townsend/Coupeville (Keystone) route to provide service at the same levels provided when the steel electric vessels were in service. After the vessels as funded under section 308~~((7))~~ (5) of this act are in service, the two most appropriate of these vessels for the Port Townsend/Coupeville (Keystone) route must be placed on the route. \$100,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the additional staffing required to maintain a reservation system at this route when the second vessel is in service.

~~((9))~~ (12) \$706,000 of the Puget Sound ferry operations account--state appropriation is provided solely for terminal operations to implement new federal passenger vessel Americans with disabilities act requirements.

~~((2))~~ (13) \$152,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

~~((21))~~ (21) If chapter ... (Substitute House Bill No. 2053), Laws of 2011 (additive transportation funding) is not enacted by June 30, 2011, the \$4,000,000 in service reductions identified in subsection (12) of this section must be restored and an identical amount must be reduced from the amount provided for the second 144-car vessel identified in section 308(8) of this act.)

Sec. 222. 2011 c 367 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING Multimodal Transportation Account--State

Appropriation.....((\$29,688,000))  
.....\$33,642,000

Multimodal Transportation Account--Federal  
Appropriation.....((\$300,000))

.....	\$400,000
TOTAL APPROPRIATION.....	(((\$29,988,000))
.....	\$34,042,000

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

(1) ((~~\$24,091,000~~)) \$27,816,000 of the multimodal transportation account--state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining state-supported passenger rail service. The department is directed to continue to pursue efforts to reduce costs, increase ridership, and review fares or fare schedules. Within thirty days of each annual cost/revenue reconciliation under the Amtrak service contract, the department shall report annual credits to the office of financial management and the legislative transportation committees. Annual credits from Amtrak to the department including, but not limited to, credits for increased revenue due to higher ridership, and fare or fare schedule adjustments, must be used to offset corresponding amounts of the multimodal transportation account--state appropriation, which must be placed in reserve. Upon completion of the rail platform project in the city of Stanwood, the department shall continue to provide daily Amtrak Cascades service to the city.

(2) Amtrak Cascade runs may not be eliminated.

(3) The department shall plan for a third roundtrip Cascades train between Seattle and Vancouver, B.C.

(4) The department shall conduct a pilot program by partnering with the travel industry on the Amtrak Cascades service between Vancouver, British Columbia, and Seattle to test opportunities for increasing ridership, maximizing farebox recovery, and stimulating private investment. The pilot program must run from July 1, 2011, to June 30, 2012. The department shall report on the results of the pilot program to the office of financial management and the legislature by September 30, 2012.

(5) \$300,000 of the multimodal transportation account--state appropriation is provided solely for the department to conduct a study to examine the interconnectivity benefits of, and potential for, a future Amtrak Cascades stop in the vicinity of the city of Auburn. As part of its consideration, the department shall conduct a thorough market analysis of the potential for adding or changing stops on the Amtrak Cascades route.

**Sec. 223.** 2011 c 367 s 223 (uncodified) is amended to read as follows:

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

Motor Vehicle Account--State Appropriation .....	(((\$8,853,000))
.....	\$8,518,000
Motor Vehicle Account--Federal Appropriation .....	\$2,567,000
TOTAL APPROPRIATION.....	(((\$11,420,000))
.....	\$11,085,000

The appropriations in this section are subject to the following conditions and limitations: The department shall submit a report to the transportation committees of the legislature by December 1, 2011, on the implementation of the recommendations that resulted from the evaluation of efficiencies in the delivery of transportation funding and services to local governments that was required under section 204(8), chapter 247, Laws of 2010. The report must include a description of how recommendations were implemented, what efficiencies were achieved, and an explanation of any recommendations that were not implemented.

**TRANSPORTATION AGENCIES—CAPITAL**

Sec. 301. 2011 c 367 s 301 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account--State Appropriation .	(((\$6,487,000))
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.....	\$6,681,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) ((~~\$653,000~~)) \$1,357,000 of the state patrol highway account--state appropriation is provided solely for the following minor works projects: \$200,000 for emergency infrastructure repairs; \$75,000 for water and sewer upgrades; \$210,000 for emergency backup system replacement; \$85,000 for chiller replacement; ((and)) \$83,000 for roof replacements; \$128,000 for septic system repairs; and \$576,000 for HVAC replacement and energy upgrades.

(2) ((~~\$3,226,000~~)) \$4,903,000 of the state patrol highway account--state appropriation is provided solely for the Shelton academy of the Washington state patrol for the new waste water treatment lines, waste water plants, water lines, and water systems. ((However, \$2,129,000 of this amount is contingent on the department of corrections receiving funding for its portion of the regional water project in the 2011-2013 omnibus capital appropriations act. If this funding is not provided by June 30, 2011, \$2,129,000 of the appropriation provided in this subsection lapses.)) Of the amount provided in this subsection, \$1,758,000 is for the Washington state patrol's portion of the costs associated with constructing a water line to the Shelton academy and \$2,047,000 is for the department of corrections' portion to construct the water line as far as the Washington state patrol's Shelton academy. If funding is provided in the 2012 supplemental omnibus capital appropriations act for any portion of the project to construct a water line to the Washington state patrol's Shelton academy, that portion of the funds included in this subsection lapses.

(3) \$421,000 of the state patrol highway account--state appropriation is provided solely for the reappropriation of the Shelton regional water project.

(4) ((~~\$2,187,000~~ of the total appropriation is provided solely for mobile office platforms.

(5)) It is the intent of the legislature that the omnibus operating appropriations act provide funding for the portion of any applicable debt service payments, resulting from financial contracts identified under section 601 of this act, that are attributable to the general fund as identified in the Washington state patrol's cost allocation model. Sec. 302. 2011 c 367 s 302 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD

Motor Vehicle Account--State Appropriation .....	\$874,000
Rural Arterial Trust Account--State Appropriation ..	(((\$37,417,000))
.....	\$62,510,000
County Arterial Preservation Account--State	
Appropriation .....	\$29,360,000
TOTAL APPROPRIATION.....	(((\$67,651,000))
.....	\$92,744,000

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

(1) \$874,000 of the motor vehicle account--state appropriation may be used for county ferry projects as developed pursuant to RCW 47.56.725(4).

(2) ((~~\$37,417,000~~)) \$62,510,000 of the rural arterial trust account--state appropriation is provided solely for county road preservation grant projects as approved by the county road administration board. These funds may be used to assist counties recovering from federally declared emergencies by providing capitalization advances and local match for federal emergency funding, and may only be made using existing fund balances. It is the intent of the legislature that the rural arterial trust account be managed based on cash flow. The county road administration board shall specifically identify any of the selected projects and shall include information concerning the selected projects in its next annual report to the legislature.

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Sec. 303. 2011 c 367 s 303 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD  
Small City Pavement and Sidewalk Account--State

Appropriation .....	(\$3,812,000))
.....	\$5,270,000
Transportation Improvement Account--State	
Appropriation .....	(\$201,050,000))
\$237,545,000	
TOTAL APPROPRIATION.....	(\$204,862,000))
.....	\$242,815,000

The appropriations in this section are subject to the following conditions and limitations: The transportation improvement account--state appropriation includes up to \$22,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.

Sec. 304. 2011 c 367 s 304 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--FACILITIES--PROGRAM D--(DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL

Motor Vehicle Account--State Appropriation .....	(\$5,433,000))
.....	\$5,545,000
Transportation Partnership Account--State	
Appropriation .....	\$1,575,000
TOTAL APPROPRIATION.....	\$7,120,000

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

(1) \$1,364,000 of the motor vehicle account--state appropriation is provided solely for the Olympic region site acquisition debt service payments and administrative costs associated with capital improvement and preservation project and financial management.

(2) (~~(\$3,669,000))~~ \$3,781,000 of the motor vehicle account--state appropriation is provided solely for high priority safety projects that are directly linked to employee safety, environmental risk, or minor works that prevent facility deterioration.

(3) \$400,000 of the motor vehicle account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit.

(4) \$1,575,000 of the transportation partnership account--state appropriation is provided solely for the traffic management center (100010T).

Sec. 305. 2011 c 367 s 305 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I ((Multimodal Transportation Account--State

Appropriation .....	\$1,000))
Transportation Partnership Account--State	
Appropriation .....	(\$1,991,547,000))
.....	\$1,636,316,000
Motor Vehicle Account--State Appropriation .....	(\$86,139,000))
.....	\$103,889,000
Motor Vehicle Account--Federal Appropriation.....	(\$450,691,000))
.....	\$790,068,000
Motor Vehicle Account--Private/Local	
Appropriation .....	(\$50,485,000))
.....	\$124,917,000
Transportation 2003 Account (Nickel Account)--State	
Appropriation .....	(\$436,005,000))
.....	\$416,125,000
State Route Number 520 Corridor Account--State	
Appropriation .....	(\$1,019,460,000))

.....	\$1,752,138,000
Special Category C Account--State Appropriation .....	\$124,000
Tacoma Narrows Toll Bridge Account--State	
Appropriation .....	\$5,791,000
TOTAL APPROPRIATION.....	(\$4,034,328,000))
.....	\$4,829,368,000

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ((2011-4)) 2012-2 as developed ((April 19, 2011)) March 8, 2012, Program - Highway Improvement Program (I). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) ((The department shall, on a quarterly basis beginning July 1, 2011, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects must be reported on a programmatic basis. Projects within this programmatic level funding must be completed on a priority basis and scoped to be completed within the current programmatic budget. Report formatting and elements must be consistent with the October 2009 quarterly project report. The department shall also provide the information required under this subsection on a quarterly basis.

(3)) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

((4)) (3) The department shall apply for surface transportation program enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in programs I and P including, but not limited to, the state route number 518, state route number 520, Columbia river crossing, and Alaskan Way viaduct projects.

((5)) (4) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the state route number 520 bridge replacement and HOV project and the Columbia river crossing project. The federal funds described in this subsection must not include those federal transit administration funds distributed by formula. The department shall provide a report regarding this effort to the legislature by October 1, 2011.

((7)) (5) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all mega-highway projects and large ferry terminal projects. These projects must be conducted with active archaeological management. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources.

((8)) (6) For highway construction projects where the department considers agricultural lands of long-term commercial significance, as defined in RCW 36.70A.030, in reviewing and selecting sites to meet environmental mitigation requirements under the national environmental policy act (42 U.S.C. Sec. 4321 et seq.) and the state environmental policy act (chapter 43.21C RCW), the

department shall, to the greatest extent possible, consider using public land first. If public lands are not available that meet the required environmental mitigation needs, the department may use other sites while making every effort to avoid any net loss of agricultural lands that have a designation of long-term commercial significance.

~~((9) \$361,000)~~ (7) \$561,000 of the transportation partnership account--state appropriation and ~~((1,245,000))~~ \$1,176,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for project OBI4ENV, Environmental Mitigation Reserve -Nickel/TPA project, as indicated in the LEAP transportation document referenced in subsection (1) of this section. Funds may be used only for environmental mitigation work that is required by permits that were issued for projects funded by the transportation partnership account or transportation 2003 account (nickel account). ~~((As part of the 2012 budget submittal, the department shall provide a list of all projects and associated amounts that are being charged to project OBI4ENV during the 2011-2013 fiscal biennium.~~

~~(10))~~ (8) The transportation 2003 account (nickel account)--state appropriation includes up to ~~((361,005,000))~~ \$339,608,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

~~((11))~~ (9) The transportation partnership account--state appropriation includes up to ~~((1,427,696,000))~~ \$972,392,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

~~((12))~~ (10) The motor vehicle account--state appropriation includes up to ~~((66,373,000))~~ \$55,870,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

~~((13))~~ (11) The state route number 520 corridor account--state appropriation includes up to ~~((987,717,000))~~ \$1,779,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.879.

~~((14) \$391,000)~~ (12) \$767,000 of the motor vehicle account--state appropriation and ~~((4,027,000))~~ \$3,736,000 of the motor vehicle account--federal appropriation are provided solely for the US 2 High Priority Safety project (100224I). Expenditure of these funds is for safety projects on state route number 2 between Monroe and Gold Bar, which may include median rumble strips, traffic cameras, and electronic message signs.

~~((15) \$687,000)~~ (13) \$820,000 of the motor vehicle account--federal appropriation, \$16,308,000 of the motor vehicle account--private/local appropriation, and ~~((22,000))~~ \$48,000 of the motor vehicle account--state appropriation are provided solely for the US 2/Bickford Avenue - Intersection Safety Improvements project (100210E).

~~((16) \$435,000)~~ (14) \$1,025,000 of the motor vehicle account--state appropriation is provided solely for environmental work on the Belfair Bypass project (300344C).

~~((17) \$108,000)~~ (15) \$372,000 of the motor vehicle account--federal appropriation and ~~((3,000))~~ \$9,000 of the motor vehicle account--state appropriation are provided solely for the I-5/Vicinity of Joint Base Lewis-McChord - Install Ramp Meters project (300596M).

~~((18) \$253,444,000)~~ (16) \$202,863,000 of the transportation partnership account--state appropriation and ~~((66,034,000))~~ \$51,138,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the I-5/Tacoma HOV Improvements (Nickel/TPA) project (300504A). The use of funds in this subsection to renovate any buildings is subject to the requirements of section 604 of this act. The department shall report to the legislature and the office of financial management on any costs associated with building renovations funded in this subsection.

~~((19))~~ (17)(a) ~~((8,321,000))~~ \$7,423,000 of the transportation partnership account--state appropriation and ~~((31,380,000))~~ \$54,461,000 of the motor vehicle account--federal appropriation are provided solely for the I-5/Columbia River Crossing project

(400506A). ~~((Of this amount,))~~ Of the amounts appropriated in this subsection, \$15,000,000 of the motor vehicle account--federal appropriation must be put into unallotted status and is subject to the review of the office of financial management. This funding may only be allotted once the state of Oregon's total contribution of shared expenses on the project are within five million dollars of the state of Washington's shared expenses.

(b) It is the intent of the legislature that Washington and Oregon have equal funding commitments and equal total expenditures to date on the shared components of the Columbia river crossing project. The department shall provide a quarterly report on this project beginning March 31, 2012. This report must include:

(i) An update on preliminary engineering and right-of-way acquisition for the previous quarter;

(ii) Planned objectives for right-of-way and preliminary engineering for the ensuing quarter;

(iii) An updated comparison of the total appropriation authority for the project by state;

(iv) An updated comparison of the total expenditures to date on the project by state; and

(v) The committed funding provided by the state of Oregon to right-of-way acquisition.

(c) \$200,000 of the transportation partnership account--state appropriation in this subsection is provided solely for the department to work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on the Columbia river crossing project. This project must be conducted with active archaeological management and result in one report that spans the single cultural area in Oregon and Washington. Additionally, the department shall establish a scientific peer review of independent archaeologists that are knowledgeable about the region and its cultural resources. ~~((No funding from any account may be expended until written confirmation has been received by the department that the state of Oregon is providing an equal amount of additional funding to the project.~~

~~((b))~~ (d) Consistent with the draft environmental impact statement and the Columbia river crossing project's independent review panel report, the Columbia river crossing project's financial plan must include recognition of state transportation funding contributions from both Washington and Oregon, federal transportation funding, and a funding contribution from toll bond proceeds. Following the refinement of the finance plan as recommended by the independent review panel, the department may seek authorization from the legislature to collect tolls on the existing Columbia river crossing or on a replacement crossing over Interstate 5.

(e) The Washington state department of transportation budget includes resources to continue work on solutions that advance the Columbia river crossing project to completion of the required environmental impact statement. The department must report to the Columbia river crossing legislative oversight subcommittee of the joint transportation committee, established in section 204(7) of this act, on the progress made on the Columbia river crossing project at each meeting of the oversight subcommittee. Reporting must include updated information on cost estimates, rights-of-way purchases and procurement schedules, and financing plans for the Columbia river crossing project, including projected traffic volumes, fuel and gas price assumptions, toll rates, costs of toll collections, as well as potential need for general transportation funding. By January 1, 2013, the department shall provide to the oversight subcommittee of the joint transportation committee a phased master plan for the Columbia river crossing project.

~~((20) \$107,000)~~ (18) Within the amounts provided for the Columbia river crossing project (400506A), the department shall conduct a traffic and revenue analysis for the Columbia river

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crossing project that will lay the foundation for investment grade traffic and revenue analysis. While conducting the analysis, the department must coordinate with the Oregon department of transportation, the Washington state transportation commission, and the Washington state legislative oversight committee.

(a) The department's analysis must include the assessment and review of the following variables within the project:

(i) Exemptions from tolls for vehicles with two or more occupants;

(ii) A variable toll where the tolls vary by time of day and day of the week; and

(iii) A frequency-based toll rate for the facility.

(b) The analysis must also assess the following:

(i) The impact that light rail service in the corridor will have on estimated toll revenues;

(ii) The level of diversion from the Interstate 5 corridor and the impact on estimated toll revenues; and

(iii) The estimated toll revenues from vehicle trips originating within the region and outside the region by vehicle type.

(c) The department must submit a report of findings to the transportation committees of the legislature by July 1, 2013.

(19) \$309,000 of the motor vehicle account--federal appropriation and ~~(\$27,000)~~ \$78,000 of the motor vehicle account--state appropriation are provided solely for the SR 9/SR 204 Intersection Improvement project (L2000040).

~~(\$21-\$2,134,000)~~ (20) \$3,385,000 of the motor vehicle account--federal appropriation and ~~(\$47,000)~~ \$50,000 of the motor vehicle account--state appropriation are provided solely for the US 12/Nine Mile Hill to Woodward Canyon Vic - Build New Highway project (501210T).

~~(\$22-\$294,000)~~ (21) \$5,791,000 of the Tacoma Narrows toll bridge account--state appropriation is provided solely for deferred sales tax expenses on the construction of the new Tacoma Narrows bridge. However, if chapter . . . (Senate Bill No. 6073), Laws of 2012 (sales tax exemption on SR 16 projects) is enacted by June 30, 2012, the amount provided in this subsection lapses.

(22) \$391,000 of the motor vehicle account--federal appropriation and ~~(\$13,000)~~ \$16,000 of the motor vehicle account--state appropriation are provided solely for the SR 16/Rosedale Street NW Vicinity - Frontage Road project (301639C). The frontage road must be built for driving speeds of no more than thirty-five miles per hour.

(23) ~~(\$1,000,000)~~ \$621,000 of the motor vehicle account--federal appropriation is provided solely for the SR 20/Race Road to Jacob's Road safety project (L2200042).

(24) ~~(\$24,002,000)~~ \$32,162,000 of the transportation partnership account--state appropriation is provided solely for the SR 28/ US 2 and US 97 Eastmont Avenue Extension project (202800D).

(25) ~~(\$569,000)~~ \$1,227,000 of the motor vehicle account--federal appropriation and ~~(\$9,000)~~ \$38,000 of the motor vehicle account--state appropriation are provided solely for design and right-of-way work on the I-82/Red Mountain Vicinity project (508208M). The department shall continue to work with the local partners in developing transportation solutions necessary for the economic growth in the Red Mountain American viticulture area of Benton county.

(26) \$1,500,000 of the motor vehicle account--federal appropriation is provided solely for the I-90 Comprehensive Tolling Study and Environmental Review project (100067T). The department shall undertake a comprehensive environmental review of tolling Interstate 90 between Interstate 5 and Interstate 405 for the purposes of both managing traffic and providing funding for construction of the unfunded state route number 520 from Interstate 5 to Medina project. The environmental review must include

significant outreach to potentially affected communities. The department may consider traffic management options that extend as far east as Issaquah.

(27) ~~(\$9,422,000)~~ \$12,149,000 of the motor vehicle account--federal appropriation and ~~(\$193,000)~~ \$362,000 of the motor vehicle account--state appropriation are provided solely for the I-90/Sullivan Road to Barker Road - Additional Lanes project (609049N).

(28) Up to \$8,000,000 in savings realized on the I-90/Snoqualmie Pass East - Hyak to Keechelus Dam - Corridor project (509009B) may be used for design work on the next two-mile segment of the corridor. Any additional savings on this project must remain on the corridor. ~~(\$590,000 of the funds appropriated for this project may be used to purchase land currently owned by the state parks department.)~~ Project funds may not be used to build or improve buildings until the plan described in section 604 of this act is complete.

(29) ~~(\$932,000)~~ \$657,000 of the motor vehicle account--federal appropriation is provided solely for the US 97A/North of Wenatchee -Wildlife Fence project (209790B).

(30) The department shall reconvene an expert review panel of no more than three members as described under RCW 47.01.400 for the purpose of updating the work that was previously completed by the panel on the Alaskan Way viaduct replacement project and to ensure that an appropriate and viable financial plan is created and regularly reviewed. The expert review panel must be selected cooperatively by the chairs of the senate and house of representatives transportation committees, the secretary of transportation, and the governor. The expert review panel must report findings and recommendations to the transportation committees of the legislature, the governor's Alaskan Way viaduct project oversight committee, and the transportation commission by October 2011, and annually thereafter until the project is operationally complete.

(31) It is important that the public and policymakers have accurate and timely access to information related to the Alaskan Way viaduct replacement project as it proceeds to, and during, the construction of all aspects of the project including, but not limited to, information regarding costs, schedules, contracts, project status, and neighborhood impacts. Therefore, it is the intent of the legislature that the state, city, and county departments of transportation establish a single source of accountability for integration, coordination, tracking, and information of all requisite components of the replacement project, which must include, at a minimum:

(a) A master schedule of all subprojects included in the full replacement project or program; and

(b) A single point of contact for the public, media, stakeholders, and other interested parties.

(32) Within the amounts provided in this section, \$20,000 of the motor vehicle account--state appropriation and \$980,000 of the motor vehicle account--federal appropriation are provided solely for the department to continue work on a comprehensive tolling study of the state route number 167 corridor (project 316718S). As funding allows, the department shall also continue work on a comprehensive tolling study of the state route number 509 corridor.

(33)(a) ~~(\$131,303,000)~~ \$137,022,000 of the transportation partnership account--state appropriation ~~(--\$51,410,000)~~ and \$50,623,000 of the transportation 2003 account (nickel account)--state appropriation ~~(--and \$10,000,000 of the motor vehicle account--federal appropriation)~~ are provided solely for the I-405/Kirkland Vicinity Stage 2 - Widening project (8B11002). This project must be completed as soon as practicable as a design-build project and must be constructed with a footprint that would accommodate potential future express toll lanes.

(b) As part of the project, the department shall conduct a traffic and revenue analysis and complete a financial plan to provide additional information on the revenues, expenditures, and financing options available for active traffic management and congestion relief in the Interstate 405 and state route number 167 corridors. A report must be provided to the transportation committees of the legislature and the office of financial management by January 2012. However, this subsection (33)(b) is null and void if chapter . . . (Engrossed House Bill No. 1382), Laws of 2011 (I-405 express toll lanes) is enacted by June 30, 2011.

(c) Of the amount appropriated in (a) of this subsection, \$15,000,000 of the transportation partnership account--state appropriation is provided solely for the preliminary design and purchase of rights-of-way on the state route number 167 direct connector. It is the intent of the legislature to fund an additional \$25,000,000 of the transportation partnership account--state appropriation for the preliminary design and purchase of rights-of-way on the state route number 167 direct connector during the 2013-2015 biennium.

(34) Funding for a signal at state route number 507 and Yew Street is included in the appropriation for intersection and spot improvements (OBI2002).

(35) (~~(\$226,809,000)~~) \$224,592,000 of the transportation partnership account--state appropriation and (~~(\$1,019,460,000)~~) \$898,286,000 of the state route number 520 corridor account--state appropriation are provided solely for the state route number 520 bridge replacement and HOV program (8BI1003). When developing the financial plan for the program, the department shall assume that all maintenance and operation costs for the new facility are to be covered by tolls collected on the toll facility, and not by the motor vehicle account.

(36) (~~(\$650,000)~~) of the motor vehicle account--federal appropriation is provided solely for the SR 522 Improvements/61st Avenue NE and NE 181st Street project (L1000055).

(37)) \$500,000 of the motor vehicle account--state appropriation is provided solely for a multimodal corridor plan on state route number 520 between Interstate 405 and Avondale Road in Redmond (L1000054).

(37) \$300,000 of the motor vehicle account--federal appropriation is provided solely for the SR 523 Corridor study (L1000059).

(38) The department shall consider using the city of Mukilteo's off-site mitigation program in the event any projects on state route number 525 or 526 require environmental mitigation.

(39) Any savings on projects on the state route number 532 corridor must be used within the corridor to begin work on flood prevention and raising portions of the highway above flood and storm influences.

(40) The total appropriation provided in this section assumes enactment of chapter . . . (Second Substitute Senate Bill No. 5250), Laws of 2012 (design-build procedures) and reflects efficiencies and cost savings generated by this innovative design and contracting tool.

(41) Construction of a new traffic management center may not commence until the budget evaluation study in section 102(1) of this act is complete and the office of financial management has determined that a new traffic management center is the preferred option and has approved this project.

(42) The department shall itemize all future requests for the construction of new buildings on a project list. Each building construction project must be listed in the project list along with all other highway construction projects and submitted by the department as part of its budget submittal. It is the intent of the legislature that new facility construction must be transparent and not appropriated within larger highway construction projects.

(43) \$250,000 of the motor vehicle account--federal

appropriation is provided solely for planning a proposed off-ramp eastbound from state route number 518 to Des Moines Memorial Drive in Burien (L1100045).

(44) \$1,100,000 of the motor vehicle account--federal appropriation is provided solely for preliminary engineering on the I-5/Marvin Road Interchange study (L2200087).

(45) \$400,000 of the motor vehicle account--federal appropriation is provided solely for the SR 150/No-See-Um Road Intersection -Realignment project (L2200092).

(46) \$750,000 of the motor vehicle account--federal appropriation is provided solely for preliminary engineering on the SR 305/Suquamish Way Intersection Improvements project (L2200093).

(47) \$700,000 of the motor vehicle account--federal appropriation is provided solely for the US 395/Lind Road Intersection project (L2200086).

**Sec. 306.** 2011 c 367 s 306 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P Transportation Partnership Account--State

Appropriation .....	(\$34,182,000)
Motor Vehicle Account--State Appropriation .....	\$44,463,000
Motor Vehicle Account--Federal Appropriation .....	(\$67,790,000)
Motor Vehicle Account--Private/Local Appropriation .....	\$81,741,000
Tacoma Narrows Toll Bridge Account--State Appropriation .....	(\$632,489,000)
Transportation 2003 Account (Nickel Account)--State Appropriation .....	\$540,306,000
TOTAL APPROPRIATION .....	(\$19,253,000)
	\$21,585,000

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document (~~(2011-4)~~) 2012-2 as developed (~~(April 19, 2011)~~) March 8, 2012, Program - Highway Preservation Program (P). However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) (The department shall, on a quarterly basis beginning July 1, 2011, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges must be reported on a programmatic basis. Projects within this programmatic level funding must be completed on a priority basis and scoped to be completed within the current programmatic budget. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis.

(3)) The department of transportation shall continue to implement the lowest life-cycle cost planning approach to pavement management throughout the state to encourage the most effective

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and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

((5)) (3) Within the motor vehicle account--state appropriation and motor vehicle account--federal appropriation, the department may transfer funds between programs I and P, except for funds that are otherwise restricted in this act.

((6)) (4) The department shall apply for surface transportation program enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in programs I and P.

((7)) (5) The motor vehicle account--state appropriation includes up to \$17,652,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

((8)) (6) The department must work with cities and counties to develop a comparison of direct and indirect labor costs, overhead rates, and other costs for high-cost bridge inspections charged by the state, counties, and other entities. The comparison is due to the transportation committees of the legislature on September 1, 2011.

((9) ~~\$277,000~~) (7) \$789,000 of the motor vehicle account--federal appropriation and (~~\$10,000~~) \$6,000 of the motor vehicle account--state appropriation are provided solely for the environmental impact statement and preliminary planning for the replacement of the state route number 9 Snohomish river bridge (project L2000018).

((10) ~~\$9,641,000~~) (8) \$10,843,000 of the motor vehicle account--federal appropriation, (~~\$2,000,000~~) \$1,992,000 of the motor vehicle account--private/local appropriation, and (~~\$361,000~~) \$390,000 of the motor vehicle account--state appropriation are provided solely for the SR 21/Keller Ferry - Replace Boat project (602110J).

((11) ~~\$3,093,000~~) (9) \$165,000 of the motor vehicle account--federal appropriation is provided solely for the I-90/Ritzville to Tokio - Paving of Outside Lanes project (609041G).

((12) ~~\$2,733,000~~) (10) \$5,565,000 of the motor vehicle account--federal appropriation and (~~\$114,000~~) \$232,000 of the motor vehicle account--state appropriation are provided solely for the SR 167/Puyallup River Bridge Replacement project (316725A). This project must be completed as a design-build project. The department must work with local jurisdictions and the community during the environmental review process to develop appropriate esthetic design elements, at no additional cost to the department, and traffic management plans pertaining to this project. The department must report to the transportation committees of the legislature on estimated cost and/or time savings realized as a result of using the design-build process.

((13) ~~\$295,000~~) (11) \$507,000 of the motor vehicle account--federal appropriation and (~~\$5,000~~) \$13,000 of the motor vehicle account--state appropriation are provided solely for the SR 906/Travelers Rest - Building Renovation project (090600A).

(12) The department shall submit a renewal and rehabilitation plan for the new state route number 16 Tacoma Narrows bridge as a decision package as part of its 2013-2015 biennial budget submittal.

**Sec. 307.** 2011 c 367 s 307 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL

Motor Vehicle Account--State Appropriation .....	(\$6,439,000)
.....	\$8,779,000
Motor Vehicle Account--Federal Appropriation .....	(\$5,600,000)
.....	\$7,283,000
TOTAL APPROPRIATION .....	(\$12,039,000)
.....	\$16,062,000

The appropriations in this section are subject to the following conditions and limitations: \$1,000,000 of the motor vehicle

account--state appropriation for project 000005Q is provided solely for state matching funds for federally selected competitive grants or congressional earmark projects. These moneys must be placed into reserve status until such time as federal funds are secured that require a state match.

Sec. 308. 2011 c 367 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W

Puget Sound Capital Construction Account--State	
Appropriation .....	(\$68,013,000)
.....	\$61,965,000
Puget Sound Capital Construction Account--Federal	
Appropriation .....	(\$41,500,000)
.....	\$61,736,000
Puget Sound Capital Construction Account--Private/Local	
Appropriation .....	\$200,000
Transportation 2003 Account (Nickel Account)--State	
Appropriation .....	(\$118,027,000)
.....	\$119,000,000
Transportation Partnership Account--State	
Appropriation .....	(\$12,536,000)
.....	\$12,838,000
Multimodal Transportation Account--State	
Appropriation .....	(\$43,265,000)
.....	\$27,527,000
TOTAL APPROPRIATION .....	(\$283,341,000)
.....	\$284,194,000

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

(1) ((~~\$68,013,000~~ of the Puget Sound capital construction account--state appropriation, ~~\$41,500,000~~ of the Puget Sound capital construction account--federal appropriation, ~~\$12,536,000~~ of the transportation partnership account--state appropriation, ~~\$118,027,000~~ of the transportation 2003 account (nickel account)--state appropriation, and ~~\$43,265,000~~ of the multimodal transportation account--state appropriation are provided solely for ferry projects.)) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed in LEAP Transportation Document ((2011-2)) 2012-1 ALL PROJECTS as developed ((April 19, 2011)) March 8, 2012, Program - Washington State Ferries Capital Program (W).

(2) The department shall work with the department of archaeology and historic preservation to ensure that the cultural resources investigation is properly conducted on all large ferry terminal projects. These projects must be conducted with active archaeological management.

(3) The multimodal transportation account--state appropriation includes up to (~~\$43,265,000~~) \$27,527,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

(4) ((The transportation 2003 account (nickel account)--state appropriation includes up to \$82,143,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

(5)) The Puget Sound capital construction account--state appropriation includes up to (~~\$52,516,000~~) \$45,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

((7) ~~\$20,906,000~~) (5) \$17,970,000 of the transportation 2003 account (nickel account)--state appropriation ((, \$9,711,000 of the multimodal transportation account--state appropriation, and \$1,537,000 of the Puget Sound capital construction account--state appropriation are)) is provided solely for the acquisition of new Kwa-di-tabil class ferry vessels (project 944470A) subject to the conditions of RCW 47.56.780.

~~((8) \$33,404,000)~~ (6) \$25,404,000 of the multimodal transportation account--state appropriation, ~~(\$2,000,000)~~ \$1,000,000 of the Puget Sound capital construction account--~~(state)~~ federal appropriation, \$11,500,000 of the transportation partnership account--state appropriation, and ~~(\$81,085,000)~~ \$85,924,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the acquisition of ~~((two) one~~ one 144-car vessel~~((s contingent upon new and sufficient resources. Of these amounts, \$123,828,000 is provided solely for the first 144-car vessel))~~ (project L2200038). The department shall use as much already procured equipment as practicable on the 144-car vessel. The vendor must present to the joint transportation committee and the office of financial management, by August 15, 2011, a list of options that will result in significant cost savings changes in terms of construction or the long-term maintenance and operations of the vessel. The vendor must allow for exercising the options without a penalty. If neither chapter ... (Engrossed Substitute Senate Bill No. 5742), Laws of 2011 nor chapter ... (House Bill No. 2083), Laws of 2011 is enacted by June 30, 2011, \$75,000,000 of the transportation 2003 account (nickel account)--state appropriation in this subsection lapses.

~~((9)~~ (9) The department shall provide to the office of financial management and the legislature quarterly reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2011-2013 fiscal biennium. Elements must include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information system. The quarterly report regarding the status of projects identified on the list referenced in subsection (1) of this section must be developed according to an earned value method of project monitoring.

~~((11) \$3,932,000)~~ (7) \$5,749,000 of the total appropriation is provided solely for continued permitting work on the Mukilteo ferry terminal (project 952515P). The department shall seek additional federal funding for this project. Prior to beginning terminal improvements, the department shall report to the legislature on the final environmental impact statement by December 31, 2012. The report must include an overview of the costs and benefits of each of the alternatives considered, as well as an identification of costs and a funding plan for the preferred alternative.

~~((43))~~ (8) The department shall review all terminal project cost estimates to identify projects where similar design requirements could result in reduced preliminary engineering or miscellaneous items costs. The department shall report to the legislature by September 1, 2011. The report must use programmatic design and include estimated cost savings by reducing repetitive design costs or miscellaneous costs, or both, applied to projects.

~~((14) \$2,000,000)~~ (9) \$3,000,000 of the Puget Sound capital construction account--state appropriation is provided solely for emergency capital repair costs (project 999910K). Funds may be spent only after approval from the office of financial management.

~~((15) \$7,167,000)~~ (10) \$4,851,000 of the Puget Sound capital construction account--state appropriation is provided solely for the reservation and communications system projects (L200041 & L200042).

(11) \$1,000,000 of the Puget Sound capital construction account--state appropriation is provided solely for security and operational planning as a first step in introducing liquid natural gas (LNG) to the Washington ferry fleet, including the issuance of a request for proposals (RFP). \$750,000 is provided solely for the department to work with appropriate agencies of the state and federal government to amend the state's current alternative security plan to account for the use of LNG as a propulsion fuel in the ferry fleet, and to begin public outreach efforts. \$250,000 is provided

solely to issue an RFP for a design-build contract to fully convert the existing diesel powered Issaquah class fleet to be solely powered by LNG. The successful bidder must be awarded the \$250,000 appropriation and must be able to offer detailed design services, attain coast guard approval regarding vessel safety and any other requirements pertaining to design, acquire engines with LNG as a sole fuel source, provide public outreach and education regarding the conversion of ferry vessels to LNG, perform all conversion work, and supply dependable and suitable quantities of LNG. The RFP must include incentives for proposals that include alternative financing arrangements, such as a delayed payment plan based on fuel savings. To the extent allowable under current law, the bidder awarded the design-build contract for converting the Issaquah fleet to LNG under this subsection must be given bidding preferences in any future LNG-related ferry proposals or projects. The RFP referenced in this subsection must be issued by the department by August 1, 2012. The department must provide a report to the joint transportation committee on the development of the RFP in July 2012 and an update report again in September 2012.

(12) \$500,000 of the Puget Sound capital construction account--state appropriation is provided solely for the ADA visual paging project (L2200083). If any new federal grants are received by the department that may supplant the state funds in this appropriation, the state funds in this appropriation must be placed in unallotted status.

(13) Consistent with RCW 47.60.662, which requires the Washington state ferry system to collaborate with passenger-only ferry and transit providers to provide service at existing terminals, the department shall ensure that multimodal access, including for passenger-only ferries and transit service providers, is not precluded by any future modifications at the terminal.

**Sec. 309.** 2011 c 367 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL Essential Rail Assistance Account--State	
Appropriation .....	(\$1,000,000)
.....	\$1,565,000
Transportation Infrastructure Account--State	
Appropriation .....	(\$5,838,000)
.....	\$5,693,000
Multimodal Transportation Account--State	
Appropriation .....	(\$52,000,000)
.....	\$58,220,000
Multimodal Transportation Account--Federal	
Appropriation .....	(\$366,314,000)
.....	\$236,597,000
Multimodal Transportation Account--Private/Local	
Appropriation .....	(\$1,292,000)
.....	\$1,010,000
TOTAL APPROPRIATION.....	(\$426,444,000)
.....	\$303,085,000

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

(1)(a) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document ~~((2011-2))~~ 2012-1 ALL PROJECTS as developed ~~((April 19, 2011))~~ March 8, 2012, Program-Rail Capital Program (Y).

(b) Within the amounts provided in this section, ~~((2,903,000))~~ \$4,757,000 of the transportation infrastructure account--state appropriation is for low-interest loans through the freight rail investment bank program for specific projects listed as recipients of these loans in the LEAP transportation document identified in (a) of this subsection. The department shall issue freight rail investment

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bank program loans with a repayment period of no more than ten years, and only so much interest as is necessary to recoup the department's costs to administer the loans.

(c) Within the amounts provided in this section, ~~(((\$1,754,000))~~ \$2,047,000 of the multimodal transportation account--state appropriation, \$10,000 of the multimodal transportation account--private/local appropriation, and \$1,000,000 of the essential rail assistance account--state appropriation are for statewide emergent freight rail assistance projects identified in the LEAP transportation document identified in (a) of this subsection.

(2)(a) ((If any funds remain in the program reserves (F01001A & F01000A) for the program and projects listed in subsection (1)(b) and (c) of this section.)) The department shall issue a call for projects for the freight rail investment bank (FRIB) loan program and the emergent freight rail assistance program (FRAP) grants, and shall evaluate the applications according to the cost-benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. Unsuccessful FRAP grant applicants should be encouraged to apply to the FRIB loan program, if eligible. By November 1, ((2011)) 2012, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(b) When the department identifies a prospective rail project that may have strategic significance for the state, or at the request of a proponent of a prospective rail project or a member of the legislature, the department shall evaluate the prospective project according to the cost-benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. The department shall report its cost-benefit evaluation of the prospective rail project, as well as the department's best estimate of an appropriate construction schedule and total project costs, to the office of financial management and the transportation committees of the legislature.

(c) The legislative priorities to be used in the cost-benefit methodology are, in order of relative importance:

(i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;

(ii) Self-sustaining economic development that creates family-wage jobs;

(iii) Preservation of transportation corridors that would otherwise be lost;

(iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;

(v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and

(vi) Mitigation of impacts of increased rail traffic on communities.

(3) The department is directed to expend unallocated federal rail crossing funds in lieu of or in addition to state funds for eligible costs of projects in program Y.

(4) The department shall provide quarterly reports to the office of financial management and the transportation committees of the legislature regarding applications that the department submits for federal funds and the status of such applications.

(5) ((The department shall, on a quarterly basis, provide to the office of financial management and the legislature reports providing the status on active projects identified in the LEAP transportation document described in subsection (1)(a) of this section. Report formatting and elements must be consistent with the October 2009 quarterly project report.

(6)) The multimodal transportation account--state appropriation includes up to ~~(((\$19,684,000))~~ \$12,103,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

((7) When the balance of that portion of the miscellaneous program account apportioned to the department for the grain train program reaches \$1,180,000, the department shall acquire additional grain train railcars.

(8) \$1,087,000 of the multimodal transportation account--state appropriation is provided solely as state matching funds for successful grant applications to either the federal rail line relocation and improvement program (project 798999D) or new federal high-speed rail grants.

(9)) ~~(6)~~ The Burlington Northern Santa Fe Skagit river bridge is an integral part of the rail system. Constructed in 1916, the bridge does not meet current design standards and is at risk during flood events that occur on the Skagit river. The department shall work with Burlington Northern Santa Fe and local jurisdictions to secure federal funding for the Skagit river bridge and to develop an appropriate replacement plan and schedule.

~~(((\$339,139,000))~~ (7) \$218,341,000 of the multimodal transportation account--federal appropriation and ~~(((\$5,099,000))~~ \$3,639,000 of the multimodal transportation account--state appropriation are provided solely for expenditures related to passenger high-speed rail grants. At one and one-half percent of the total project funds, the multimodal transportation account--state funds are provided solely for expenditures that are not federally reimbursable. Funding in this subsection is the initial portion of multiyear high-speed rail program grants awarded to Washington state for high-speed intercity passenger rail investments. Funding will allow for two additional round trips between Seattle and Portland and other rail improvements.

~~(((\$44))~~ (8) \$750,000 of the multimodal transportation account--state appropriation is provided solely for the Port of Royal Slope rehabilitation project (L1000053). Funding is contingent upon the project completing the rail cost-benefit methodology process developed during the 2008 interim using the legislative priorities outlined in subsection (2)(c) of this section.

(9) As allowable under federal rail authority rules and existing competitive bidding practices, when purchasing new train sets, the department shall give preference to bidders that propose train sets with characteristics and maintenance requirements most similar to those currently owned by the department.

(10) Funds generated by the grain train program are solely for operating, sustaining, and enhancing the grain train program including, but not limited to, operations, capital investments, inspection, developing business plans for future growth, and fleet management. Any funds deemed by the department, in consultation with relevant port districts, to be in excess of current operating needs or capital reserves of the grain train program may be transferred from the miscellaneous program account to the essential rail assistance account for the purpose of sustaining the grain train program through maintaining the Palouse river and Coulee City railroad line, on which the grain train program operates.

(11) \$500,000 of the essential rail assistance account--state appropriation is provided solely for the purpose of rehabilitation and maintenance of the Palouse river and Coulee City railroad line. Expenditures from this appropriation may not exceed the combined total of:

(a) The revenues deposited into the essential rail assistance account from leases and sale of property pursuant to RCW 47.76.290; and

(b) Revenues transferred from the miscellaneous program account for the purpose of sustaining the grain train program through maintaining the Palouse river and Coulee City railroad line.

(12) \$200,000 of the multimodal transportation account--state appropriation is provided solely for the Clark county chelatchie prairie rail road (project L2200085).

**Sec. 310.** 2011 c 367 s 310 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--CAPITAL

Highway Infrastructure Account--State Appropriation .....	\$207,000
Highway Infrastructure Account--Federal	
Appropriation .....	\$1,602,000
Motor Vehicle Account--State Appropriation .....	(\$3,754,000)
.....	\$4,179,000
Motor Vehicle Account--Federal Appropriation .....	(\$31,856,000)
.....	\$37,935,000
Freight Mobility Investment Account--State	
Appropriation .....	\$11,278,000
Transportation Partnership Account--State	
Appropriation .....	(\$6,035,000)
.....	\$7,181,000
Freight Mobility Multimodal Account--State	
Appropriation .....	(\$15,117,000)
.....	\$15,668,000
Freight Mobility Multimodal Account--Local	
Appropriation .....	(\$4,752,000)
.....	\$2,834,000
Multimodal Transportation Account--State	
Appropriation .....	(\$18,453,000)
.....	\$22,575,000
Passenger Ferry Account--State Appropriation .....	\$1,115,000
TOTAL APPROPRIATION .....	(\$94,169,000)
.....	\$104,574,000

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

(1) (The department shall, on a quarterly basis beginning July 1, 2011, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Report formatting and elements must be consistent with the October 2009 quarterly project report. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system.

(2)) \$1,115,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements and operating expenses that are consistent with the business plan approved by the governor for passenger ferry service.

((3)) (2) The department shall apply for surface transportation program enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z--capital.

((4)) (3) Federal funds may be transferred from program Z to programs I and P and state funds must be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations must initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2011, and December 1, 2012.

((5)) (4) The city of Winthrop may utilize a design-build process for the Winthrop bike path project.

((6) ~~\$11,557,000~~) (5) \$14,813,000 of the multimodal transportation account--state appropriation, ((~~\$12,136,000~~)) \$12,804,000 of the motor vehicle account--federal appropriation, and ((~~\$5,195,000~~)) \$6,241,000 of the transportation partnership

account--state appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in: LEAP Transportation Document 2011-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed April 19, 2011; LEAP Transportation Document 2009-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 30, 2009; LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed April 20, 2007; and LEAP Transportation Document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

((7)) (6) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by project and amount in LEAP Transportation Document ((2011-2)) 2012-1 ALL PROJECTS as developed ((April 19, 2011)) March 8, 2012, Program - Local Program (Z).

((8)) (7) For the 2011-2013 project appropriations, unless otherwise provided in this act, the director of the office of financial management may authorize a transfer of appropriation authority between projects managed by the freight mobility strategic investment board and may also advance projects in future biennia, as identified in LEAP Transportation Document 2012-1 ALL PROJECTS as developed March 8, 2012, into the current biennium in order for the board to manage project spending and efficiently deliver all projects in the respective program.

((9)) (8) With each department budget submittal, the department shall provide an update on the status of the repayment of the twenty million dollars of unobligated federal funds authority advanced by the department in September 2010 to the city of Tacoma for the Murray Morgan/11th Street bridge project.

((10) The department shall prepare a list of main street projects, consistent with chapter ... (Engrossed Substitute House Bill No. 1071), Laws of 2011, for approval in the 2013-2015 fiscal biennium. In order to ensure that any proposed list of projects is consistent with legislative intent, the department shall provide a report to the joint transportation committee by December 1, 2011. The report must identify the eligible segments of main streets highways, the department's proposed project selection and ranking method, criteria to be considered, and a plan for soliciting project proposals.

((11)) (9) If funding is specifically designated in this act for main street projects, the department shall prepare a list of projects that is consistent with chapter 257, Laws of 2011, for approval in the 2013-2015 fiscal biennium.

((10) \$267,000 of the motor vehicle account--state appropriation and \$2,859,000 of the motor vehicle account--federal appropriation are provided solely for completion of the US 101 northeast peninsula safety rest area and associated roadway improvements east of Port Angeles at the Deer Park scenic view point (3LP187A). The department must surplus any right-of-way previously purchased for this project near Sequim. Approval to proceed with construction is contingent on surplus of previously purchased right-of-way.

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~~((12))~~ (11) Up to ~~((\$3,650,000))~~ \$3,702,000 of the motor vehicle account--federal appropriation and ~~((\$23,000))~~ \$75,000 of the motor vehicle account--state appropriation are provided solely to reimburse the cities of Kirkland and Redmond for pavement and bridge deck rehabilitation on state route number 908 (ILP611A). These funds may not be expended unless the cities sign an agreement stating that the cities agree to take ownership of state route number 908 in its entirety and agree that the payment of these funds represents the entire state commitment to the cities for state route number 908 expenditures.

~~((13))~~ (12) \$225,000 of the multimodal transportation account--state appropriation is provided solely for the Shell Valley emergency road and bicycle/pedestrian path (L1000036).

~~((14) \$150,000)~~ (13) \$188,000 of the motor vehicle account--state appropriation is provided solely for flood reduction solutions on state route number 522 caused by the lower McAleer and Lyon creek basins (L1000041).

~~((15))~~ (14) \$896,000 of the multimodal transportation account--state appropriation is provided solely for realignment of Parker Road and construction of secondary access off of state route number 20 (L2200040).

~~((16))~~ (15) An additional \$2,500,000 of the motor vehicle account--federal appropriation is provided solely for the Strander Blvd/SW 27th St Connection project (ILP902F), which amount is reflected in the LEAP transportation document identified in subsection ~~((7))~~ (6) of this section. These funds may only be committed if needed, may not be used to supplant any other committed project partnership funding, and must be the last funds expended.

~~((17))~~ (16) \$500,000 of the motor vehicle account--federal appropriation is provided solely for safety improvements at the intersection of South Wapato and McDonald Road (L1000052).

~~((18))~~ (17) \$2,000,000 of the multimodal transportation account--state appropriation is provided solely for the state route number 432 rail realignment and highway improvements project (L1000056).

~~((19))~~ (18) \$500,000 of the multimodal transportation account--state appropriation is provided solely for a multimodal corridor plan on state route number 520 between Interstate 405 and Avondale Road in Redmond (L1000054).

~~((20))~~ (18) \$100,000 of the motor vehicle account--federal appropriation is provided solely for state route number 164 and Auburn Way South pedestrian improvements (L1000057).

~~((21))~~ (19) \$115,000 of the motor vehicle account--federal appropriation is provided solely for median street lighting on state route number 410 (L1000058).

~~((22))~~ (20) \$60,000 of the multimodal transportation account--state appropriation is provided solely for a cross docking study for the port of Douglas county (L1000060).

~~((23))~~ (21) \$100,000 of the motor vehicle account--federal appropriation is provided solely for city of Auburn - 8th and R Street NE intersection improvements (L2200043).

~~((24))~~ (22) \$65,000 of the multimodal transportation account--state appropriation is provided solely for the Puget Sound regional council to further the implementation of multimodal concurrency practice through a transit service overlay zone implemented at the local level (L1000061). This approach will improve the linkage of land use and transportation investment decisions, improve the efficiency of transit service by encouraging transit-supportive development, provide incentives for developers, and support integrated regional growth, economic development, and transportation plans. In carrying out this work, the council shall involve representatives from cities and counties, developers, transit agencies, and other interested stakeholders, and shall consult with other regional transportation planning organizations across the state.

The council shall report the results of their work and recommendations to the joint transportation committee by December 2011, with a final report to the transportation committees of the legislature by January 31, 2012.

(23) \$1,750,000 of the motor vehicle account--federal appropriation is provided solely for the SR 522 Improvements/61st Avenue NE and NE 181st Street project (L1000055).

(24) The department shall implement a call for projects eligible for the bicycle and pedestrian grant program similar to the call for projects conducted in 2010, although the department may adjust the criteria to include mobility and connectivity. The department shall include a list of prioritized bicycle and pedestrian grant projects for approval in the 2013-2015 biennial transportation budget.

(25) \$100,000 of the multimodal transportation account--state appropriation is provided solely for the design of a stand-alone ADA accessible bicycle/pedestrian bridge across the Sultan river in the city of Sultan (L1100044).

(26) \$445,000 of the motor vehicle account--federal appropriation is provided solely for pedestrian lighting on the main span of the Chehalis river bridge in Aberdeen (L1100046).

(27) \$500,000 of the motor vehicle account--federal appropriation is provided solely for resurfacing Alder Avenue in the city of Sultan (L1100047).

(28) \$800,000 of the motor vehicle account--federal appropriation is provided solely for rights-of-way acquisition on state route number 516 from Jenkins creek to 185th (L2000017).

(29) \$1,100,000 of the motor vehicle account--federal appropriation is provided solely for traffic analysis, right-of-way, and design work on the 31st Avenue Southwest overpass on Puyallup's South Hill (L1100048).

(30) \$2,000,000 of the motor vehicle account--federal appropriation is provided solely for environmental documentation and preliminary engineering for the Scott Avenue Reconnection Project in the city of Woodland (L1100049).

(31) \$350,000 of the motor vehicle account--federal appropriation is provided solely for preliminary engineering and rights-of-way on the Slater Road Bridge project (L2200089).

(32) \$380,000 of the motor vehicle account--federal appropriation is provided solely for rehabilitation work for 156th/160th Avenue in the city of Covington (L2200088).

(33) \$380,000 of the motor vehicle account--federal appropriation is provided solely for improvements to Penney Avenue in the town of Naches (L2200090).

(34) \$450,000 of the motor vehicle account--federal appropriation is provided solely for preliminary engineering on NW Friberg Street and Goodwin Road in the city of Camas (L2200091).

**NEW SECTION. Sec. 311.** A new section is added to 2011 c 367 (uncodified) to read as follows:

#### REPORTING REQUIREMENTS FOR CAPITAL PROGRAM

On a quarterly basis, the department of transportation shall provide to the office of financial management and the legislative transportation committees the following reports for all capital programs:

(1) For active projects, the report must include:

(a) A TEIS version containing actual capital expenditures for all projects consistent with the structure of the most recently enacted budget;

(b) Anticipated cost savings, cost increases, reappropriations, and schedule adjustments for all projects consistent with the structure of the most recently enacted budget;

(c) The award amount, the engineer's estimate, and the number of bidders for all active projects consistent with the structure of the most recently enacted budget;

(d) Projected costs and schedule for individual projects that are funded at a programmatic level for projects relating to bridge rail,

guard rail, fish passage barrier removal, roadside safety projects, and seismic bridges. Projects within this programmatic level funding must be completed on a priority basis and scoped to be completed within the current programmatic budget;

(e) Highway projects that may be reduced in scope and still achieve a functional benefit;

(f) Highway projects that have experienced scope increases and that can be reduced in scope;

(g) Highway projects that have lost significant local or regional contributions that were essential to completing the project; and

(h) Contingency amounts for all projects consistent with the structure of the most recently enacted budget.

(2) For completed projects, the report must:

(a) Compare the original project cost estimates and schedule approved in the transportation 2003 and 2005 transportation partnership project lists to the completed cost of the project;

(b) Compare the costs and operationally complete date for projects on the transportation 2003 and 2005 transportation partnership project lists to the last legislatively adopted project list prior to the completion of a project;

(c) Compare the costs and operationally complete date for projects with budgets of twenty million dollars that are funded with preexisting funds to the original project cost estimates and schedule; and

(d) Provide a list of nickel and TPA projects charging to the nickel/TPA environmental mitigation reserve (OBI4ENV) and the amount each project is charging.

(3) For prospective projects, the report must:

(a) Identify the estimated advertisement date for all projects consistent with the structure of the most recently enacted budget that are going to advertisement during the current biennium;

(b) Identify the anticipated operationally complete date for all projects consistent with the structure of the most recently enacted budget that are going to advertisement during the current biennium; and

(c) Identify the estimated cost of completion for all projects consistent with the structure of the most recently enacted budget that are going to advertisement during the current biennium.

**TRANSFERS AND DISTRIBUTIONS**

**Sec. 401.** 2011 c 367 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account--State	
Appropriation .....	(((\$920,560,000))
.....	\$879,501,000
Ferry Bond Retirement Account--State Appropriation	.\$31,801,000
State Route Number 520 Corridor Account--State	
Appropriation .....	(((\$1,075,000))
.....	\$3,818,000
Transportation Improvement Board Bond Retirement Account--State Appropriation	.....(((\$16,544,000))
.....	\$16,482,000
Nondebt-Limit Reimbursable Account Appropriation	.....(((\$25,200,000))
.....	\$22,476,000
Transportation Partnership Account--State	
Appropriation .....	(((\$3,142,000))
.....	\$3,654,000
Motor Vehicle Account--State Appropriation	.....(((\$333,000))
.....	\$382,000

Transportation 2003 Account (Nickel Account)--State	
Appropriation .....	(((\$1,140,000))
.....	\$1,305,000
Transportation Improvement Account--State	
Appropriation .....	\$29,000
Multimodal Transportation Account--State	
Appropriation .....	(((\$138,000))
.....	\$158,000
Toll Facility Bond Retirement Account--State	
Appropriation .....	(((\$33,792,000))
.....	\$48,807,000
Toll Facility Bond Retirement Account--Federal	
Appropriation .....	(((\$14,649,000))
.....	\$7,500,000
TOTAL APPROPRIATION.....	(((\$1,048,403,000))
.....	\$1,015,913,000

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

(1) \$4,610,000 of the highway bond retirement account--state appropriation is provided solely for debt service on bonds issued to construct a ferry boat vessel with a carrying capacity of one hundred forty-four cars. If neither chapter ... (House Bill No. 2083), Laws of 2011 nor chapter ... (Engrossed Substitute Senate Bill No. 5742) is enacted by June 30, 2011, the amount provided in this subsection lapses.

(2) \$165,000 of the transportation 2003 account (nickel account)--state appropriation is provided solely for discounts on bonds sold to construct a ferry boat vessel with a carrying capacity of one hundred forty-four cars. If neither chapter ... (House Bill No. 2083), Laws of 2011 nor chapter ... (Engrossed Substitute Senate Bill No. 5742) is enacted by June 30, 2011, the amount provided in this subsection lapses.))

Sec. 402. 2011 c 367 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

State Route Number 520 Corridor Account--State	
Appropriation .....	(((\$68,000))
.....	\$960,000
Transportation Partnership Account--State	
Appropriation .....	(((\$608,000))
.....	\$587,000
Motor Vehicle Account--State Appropriation	.....(((\$60,000))
.....	\$58,000
Transportation 2003 Account (Nickel Account)--State	
Appropriation .....	(((\$219,000))
.....	\$255,000
Transportation Improvement Account--State Appropriation	.\$5,000
Multimodal Transportation Account--State	
Appropriation .....	(((\$26,000))
.....	\$23,000
TOTAL APPROPRIATION.....	(((\$986,000))
.....	\$1,888,000

((The appropriations in this section are subject to the following conditions and limitations: \$30,000 of the transportation 2003 account (nickel account)--state appropriation is provided solely for expenses associated with bonds sold to construct a ferry boat vessel with a carrying capacity of one hundred forty-four cars. If neither chapter ... (House Bill No. 2083), Laws of 2011 nor chapter ... (Engrossed Substitute Senate Bill No. 5742) is enacted by June 30, 2011, the amount provided in this subsection lapses.))

Sec. 403. 2011 c 367 s 403 (uncodified) is amended to read as follows:

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FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS

Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account .....(((\$52,516,000)) .....\$45,000,000

The department of transportation is authorized to sell up to ~~(((\$52,516,000))~~ \$45,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries. ~~((Of the authorized amounts, \$14,500,000 is provided solely for expenditures made during the fiscal biennium ending June 30, 2011.))~~

Sec. 404. 2011 c 367 s 404 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account--State Appropriation for motor vehicle fuel tax distributions to cities and counties.....(((\$478,155,000)) .....\$470,701,000

Sec. 405. 2011 c 367 s 405 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--TRANSFERS

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and statutory transfers .....(((\$1,246,357,000)) .....\$1,227,005,000

Sec. 406. 2011 c 367 s 406 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING--TRANSFERS

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and transfers ....(((\$127,984,000)) .....\$151,870,000

Sec. 407. 2011 c 367 s 407 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS

(1) ((Tacoma Narrows Toll Bridge Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....\$543,000

(2)) Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State .....(((\$46,500,000)) .....\$45,500,000

((3)) (2) Recreational Vehicle Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....(((\$1,450,000)) .....\$1,150,000

((4)) (3) License Plate Technology Account--State Appropriation: For transfer to the Highway Safety Account--State .....(((\$3,200,000)) .....\$3,000,000

((5)) (4) Multimodal Transportation Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State .....(((\$43,000,000)) .....\$42,000,000

((6)) (5) Highway Safety Account--State Appropriation: For transfer to the Motor Vehicle Account--State .....\$23,000,000

((7) Department of Licensing Services Account -State Appropriation: For transfer to the Motor Vehicle Account--State .....\$400,000

(8)) (6) Advanced Right-of-Way Revolving Fund: For

transfer to the Motor Vehicle Account--State.....\$5,000,000  
 (((9) State Route Number 520 Civil Penalties Account--State Appropriation: For transfer to the State Route Number 520 Corridor Account--State.....\$754,000  
 (10)) (7) Rural Mobility Grant Program Account--State Appropriation: For transfer to the Multimodal Transportation Account--State.....\$3,000,000  
 (((11)) (8) Motor Vehicle Account--State Appropriation: For transfer to the State Patrol Highway Account--State.....(((\$14,000,000)) .....\$16,000,000

((12)) (9) State Route Number 520 Corridor Account--State Appropriation: For transfer to the Motor Vehicle Account--State(, in an amount equal to funds dispersed during the 2009-2011 fiscal biennium authorized under section 805(7) of this act.) .....\$58,000  
 (((13)) (10) Motor Vehicle Account--State Appropriation: For transfer to the Special Category C Account--State .....(((\$1,500,000)) .....\$2,500,000

((14)) (11) Regional Mobility Grant Program Account--State Appropriation: For transfer to the Multimodal Transportation Account--State.....\$1,000,000  
 (((15)) (12) State Patrol Highway Account--State Appropriation: For transfer to the Vehicle Licensing Fraud Account.....\$100,000

((16) State Route Number 520 Corridor Account--State Appropriation: For transfer to the Motor Vehicle Account.....\$2,435,000))  
 (13) Capital Vessel Replacement Account--State Appropriation: For transfer to the Transportation 2003 Account (Nickel Account)--State .....\$6,367,000

((17)) (14) The transfers identified in this section are subject to the following conditions and limitations:

(a) ((The amount transferred in subsection (1) of this section represents repayment of operating loans and reserve payments provided to the Tacoma Narrows toll bridge account from the motor vehicle account in the 2005-2007 fiscal biennium.

(b) The transfer in subsection (9) of this section represents toll revenue collected from toll violations) The transfer in subsection (9) of this section represents the repayment of an amount equal to subprogram B5 expenditures that occurred in the motor vehicle account in the 2009-2011 fiscal biennium.

(b) The amount transferred in subsection (2) of this section shall not exceed the expenditures incurred from the motor vehicle account--state for the recreational vehicle sanitary disposal systems program.

COMPENSATION

Sec. 501. 2011 c 367 s 502 (uncodified) is amended to read as follows:

COLLECTIVE BARGAINING AGREEMENTS--WSP TROOPERS ASSOCIATION

(1) No agreement has been reached between the governor and the Washington state patrol trooper's association under chapter 41.56 RCW for ~~((the 2011-2013 fiscal biennium))~~ fiscal year 2012. Appropriations for the Washington state patrol in this act are sufficient to fund the provisions of the 2009-2011 agreement.

(2) An agreement has been reached between the governor and the Washington state patrol troopers association under chapter 41.56 RCW for fiscal year 2013. Appropriations for the Washington state patrol in this act provide funding to implement the fiscal year 2013 agreement. The fiscal year 2013 agreement contains no

change in compensation from the 2009-2011 agreement; therefore, no additional funding is appropriated.

**Sec. 502.** 2011 c 367 s 503 (uncodified) is amended to read as follows:

**COLLECTIVE BARGAINING AGREEMENTS--WSP LIEUTENANTS ASSOCIATION**

(1) No agreement has been reached between the governor and the Washington state patrol lieutenant's association under chapter 41.56 RCW for ~~((the 2011-2013 fiscal biennium))~~ fiscal year 2012. Appropriations for the Washington state patrol in this act are sufficient to fund the provisions of the 2009-2011 agreement.

(2) An agreement has been reached between the governor and the Washington state patrol lieutenants association under chapter 41.56 RCW for fiscal year 2013. Appropriations for the Washington state patrol in this act provide funding to implement the fiscal year 2013 agreement. The fiscal year 2013 agreement contains no change in compensation from the 2009-2011 agreement; therefore, no additional funding is appropriated.

**Sec. 503.** 2011 c 367 s 505 (uncodified) is amended to read as follows:

**DEPARTMENT OF TRANSPORTATION MARINE DIVISION COLLECTIVE BARGAINING AGREEMENTS--TERMS AND CONDITIONS**

No agreement has been reached between the governor and the masters, mates, and pilots marine operations watch supervisors under chapter 47.64 RCW for the 2011-2013 fiscal biennium. Appropriations in this act reflect funding to maintain the provisions or terms and conditions of the 2009-2011 agreements for fiscal year 2012. Fiscal year 2013 appropriations are reduced to reflect a 6.0 percent temporary salary reduction effective July 1, 2012, through June 29, 2013, a reduction to overtime calculation, reduced vacation accruals, and other management priorities in collective bargaining. Effective June 30, 2013, the salary schedules effective July 1, 2009, through June 30, 2011, will be reinstated.

**NEW SECTION. Sec. 504. TRANSPORTATION EMPLOYEES--COMPENSATION**

The following acts or parts of acts are each repealed:

(1) 2011 1st sp.s. c 50 s 718 (uncodified) (FOR THE OFFICE OF FINANCIAL MANAGEMENT--TRANSPORTATION EMPLOYEES--RETIREMENT SYSTEM CONTRIBUTIONS);

(2) 2011 1st sp.s. c 50 s 719 (uncodified) (FOR THE OFFICE OF FINANCIAL MANAGEMENT--TRANSPORTATION EMPLOYEES--RETIREMENT SYSTEM CONTRIBUTIONS);

(3) 2011 1st sp.s. c 50 s 720 (uncodified) (FOR THE OFFICE OF FINANCIAL MANAGEMENT--TRANSPORTATION EMPLOYEE SALARY REDUCTIONS); and

(4) 2011 1st sp.s. c 50 s 721 (uncodified) (FOR THE OFFICE OF FINANCIAL MANAGEMENT--TRANSPORTATION EMPLOYEES RETIREMENT SYSTEM CONTRIBUTIONS).

**IMPLEMENTING PROVISIONS**

**NEW SECTION. Sec. 601.** A new section is added to 2011 c 367 (uncodified) to read as follows:

The department of transportation may provide up to \$163,000 in toll credits to the Port of Kingston for its role in the new passenger-only ferry service and ferry corridor-related projects. The number of toll credits provided to the Port of Kingston must be equal to, but no more than, the number sufficient to meet federal match requirements for grant funding for passenger-only ferry service, but shall not exceed the amount authorized in this section.

**Sec. 602.** 2011 c 367 s 608 (uncodified) is amended to read as follows:

**STAFFING LEVELS**

(1) As the department of transportation completes delivery of the projects funded by the 2003 and 2005 transportation revenue

packages, it is clear that the current staffing levels necessary to deliver these projects are not sustainable into the future. Therefore, the department is directed to quickly move forward to develop and implement new business practices so that a smaller, more nimble state workforce can effectively and efficiently deliver transportation improvement programs as they are approved in the future, in strong partnership with the private sector, while protecting the public's interests and assets.

(2) To this end, the department of transportation is directed to reduce the size of its engineering and technical workforce to a level sustained by current law revenue levels currently estimated at two thousand FTEs by the end of the 2013-2015 fiscal biennium. The department's current two thousand eight hundred FTE engineering and technical workforce levels for highway construction will be reduced in the 2011-2013 fiscal biennium, with a target of two thousand four hundred FTEs by June 30, 2013, and to a level of two thousand FTEs by June 30, 2015.

(3) In order to successfully deliver the highway construction program as funded, the department of transportation may continue to contract out engineering and technical services. In addition, the department may continue the incentive program for retirements and employee separations. ~~((The department shall report quarterly to the office of financial management and the transportation committees of the legislature on its progress and plans to reduce highway construction workforce levels to two thousand FTEs by June 2015. This report must also be posted on the department's web site.))~~

(4) The department of transportation is directed to reduce the size of its administrative operating programs for the 2013-2015 biennium. As part of the department's biennial budget submittal, the department shall reduce its workforce in Programs C, H, T, and S by three percent. The ratio of executive management service or Washington management services employee staff must be at least six staff for every manager by the end of the 2013-2015 biennium.

**Sec. 603.** 2011 c 367 s 603 (uncodified) is amended to read as follows:

**FUND TRANSFERS**

(1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or improvements are listed in LEAP Transportation Document ~~((2011-1))~~ 2012-2 as developed ~~((April 19, 2011))~~ March 8, 2012, which consists of a list of specific projects by fund source and amount over a sixteen-year period. Current fiscal biennium funding for each project is a line-item appropriation, while the outer year funding allocations represent a sixteen-year plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 account (nickel account) projects on the LEAP transportation documents referenced in this act. For the 2009-2011 and 2011-2013 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations, or transportation partnership account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

(b) Transfers from a project may not be made as a result of the reduction of the scope of a project or be made to support increases in the scope of a project;

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2012 supplemental transportation budget, any unexpended 2009-2011 appropriation

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balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

(e) Transfers may not occur for projects not identified on the applicable project list;

(f) Transfers may not be made while the legislature is in session; and

(g) Transfers between projects may be made by the department of transportation until the transfer amount by project exceeds two hundred fifty thousand dollars, or ten percent of the total project, whichever is less. These transfers must be reported quarterly to the director of financial management and the chairs of the house of representatives and senate transportation committees.

(2) At the time the department submits a request to transfer funds under this section, a copy of the request must be submitted to the transportation committees of the legislature.

(3) The office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers in a timely manner.

(4) The office of financial management shall document approved transfers and schedule changes in the transportation executive information system, compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP transportation documents referenced in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

**NEW SECTION. Sec. 604.** A new section is added to 2011 c 367 (uncodified) to read as follows:

A narrowbanding financing contract adopted by the Washington state patrol is contingent upon the completion of an independent financial, technical, and compliance review that must include the review of the utilization of the United States department of justice's integrated wireless network, which includes a risk mitigation strategy and plans, age and platform of the communication equipment's technology, and contractual services and obligations, to be completed and approved by the office of financial management by July 31, 2012, before any financial contracts using certificates of participation can be executed. The office of financial management must request from the federal communications commission an extension of ninety days for meeting the January 1, 2013, narrowbanding mandate to allow the time required to perform the review.

**CONDITIONALLY ADDITIVE APPROPRIATIONS**

**NEW SECTION. Sec. 701.** A new section is added to 2011 c 367 (uncodified) to read as follows:

It is the intent of the legislature that the appropriations in sections 702 through 713 of this act be an initial commitment to the programs and activities funded and that the commitment continue through the 2013-2015 fiscal biennium. To that end, it is the intent of the legislature that the spending plan for the 2013-2015 fiscal biennium reflect the programmatic areas and amounts described in LEAP Transportation Document 2012-4, as developed March 8, 2012.

**NEW SECTION. Sec. 702.** A new section is added to 2011 c 367 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE PATROL**  
State Patrol Highway Account--State Appropriation .....\$3,500,000  
Highway Safety Account--State Appropriation.....\$6,000,000

TOTAL APPROPRIATION .....\$9,500,000

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

(1) \$1,642,000 of the state patrol highway account--state appropriation is provided solely for the auto theft investigation units in King county, the city of Spokane, and the city of Tacoma.

(2) \$5,000,000 of the highway safety account--state appropriation is provided solely to train an additional trooper cadet class in the current biennium.

**NEW SECTION. Sec. 703.** A new section is added to 2011 c 367 (uncodified) to read as follows:

**FOR THE COUNTY ROAD ADMINISTRATION BOARD--CAPITAL**

Highway Safety Account--State Appropriation.....\$3,500,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the county arterial preservation program to help counties meet urgent preservation needs.

**NEW SECTION. Sec. 704.** A new section is added to 2011 c 367 (uncodified) to read as follows:

**FOR THE TRANSPORTATION IMPROVEMENT BOARD--CAPITAL**

Highway Safety Account--State Appropriation.....\$3,500,000

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

(1) \$3,150,000 of the highway safety account--state appropriation is provided solely for the urban arterial program to help cities meet urgent preservation and storm water needs.

(2) \$350,000 of the highway safety account--state appropriation is provided solely for the small city pavement program to help cities meet urgent preservation and storm water needs.

**NEW SECTION. Sec. 705.** A new section is added to 2011 c 367 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I**

Motor Vehicle Account--State Appropriation \$8,303,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely to advance the design, preliminary engineering, and rights-of-way acquisition for the priority projects identified in LEAP Transportation Document 2012-3 as developed March 8, 2012. Funds must be used to advance the emergent, initial development of these projects for the purpose of expediting delivery of the associated major investments when funding for such investments becomes available. Funding may be reallocated between projects to maximize the accomplishment of design and preliminary engineering work and rights-of-way acquisition, provided that all projects are addressed. It is the intent of the legislature that, while seeking to maximize the outcomes in this section, the department shall provide for continuity of both the state and consulting engineer workforce, while strategically utilizing private sector involvement to ensure consistency with the department's business plan for staffing in the highway construction program in the current and next biennium.

**NEW SECTION. Sec. 706.** A new section is added to 2011 c 367 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M**

Highway Safety Account--State Appropriation.....\$3,500,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely to further reduce the highway maintenance backlog in order to maintain or increase levels of service.

NEW SECTION. Sec. 707. A new section is added to 2011 c 367 (uncodified) to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P Highway Safety Account--State Appropriation.....\$3,500,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for urgent preservation needs on the state highway system.

NEW SECTION. Sec. 708. A new section is added to 2011 c 367 (uncodified) to read as follows:

FOR THE STATE TREASURER: FOR DISTRIBUTION TO TRANSIT ENTITIES

Public Transportation Grant Program Account--State Appropriation.....\$9,000,000

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

(1) The appropriation in this section must be distributed statewide to transit authorities according to the distribution formula in subsection (2) of this section. Funding must be used for operations.

(2) Of the amounts provided in this section:

(a) One-third must be distributed based on vehicle miles of service provided;

(b) One-third must be distributed based on the number of vehicle hours of service provided; and

(c) One-third must be distributed based on the number of passenger trips.

(3) For the purposes of this section:

(a) "Transit authorities" has the same meaning as in RCW 9.91.025(2)(c).

(b) "Vehicle miles of service," "vehicle hours of service," and "passenger trips" are transit service metrics as reported by the public transportation program of the department of transportation in the annual report required in RCW 35.58.2796 for calendar year 2010.

NEW SECTION. Sec. 709. A new section is added to 2011 c 367 (uncodified) to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X Highway Safety Account--State Appropriation.....\$7,000,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for the purchase of fuel for marine operations.

NEW SECTION. Sec. 710. A new section is added to 2011 c 367 (uncodified) to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W

Transportation 2003 Account (Nickel Account)--State Appropriation.....\$130,000,000

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

(1) The appropriation in this section is provided solely for the purposes of constructing a ferry boat vessel with a carrying capacity of at least one hundred forty-four cars.

(2) The appropriation in this section includes up to \$130,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.861.

NEW SECTION. Sec. 711. A new section is added to 2011 c 367 (uncodified) to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--CAPITAL Highway Safety Account--State Appropriation.....\$3,000,000

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

(1) \$750,000 of the highway safety account--state appropriation is provided solely to the freight mobility strategic investment board for grants to meet urgent freight corridor improvement and preservation needs, including advancing projects that are identified in LEAP Transportation Document 2012-1 ALL PROJECTS as developed March 8, 2012, and for other projects that meet the board's criteria.

(2) \$2,250,000 of the highway safety account--state appropriation is provided solely for safe routes to schools program projects, in rank order, and identified as contingency projects in the LEAP Transportation Document 2011-A, pedestrian and bicycle safety program projects and safe routes to school program projects, referenced in chapter 367, Laws of 2011 (the omnibus transportation appropriations act).

NEW SECTION. Sec. 712. A new section is added to 2011 c 367 (uncodified) to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE Highway Bond Retirement Account--State Appropriation\$6,500,000

NEW SECTION. Sec. 713. A new section is added to 2011 c 367 (uncodified) to read as follows:

FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Transportation 2003 Account (Nickel Account)--State Appropriation.....\$58,000

NEW SECTION. Sec. 714. Sections 702 through 709 and 711 of this act take effect November 1, 2012.

NEW SECTION. Sec. 715. Sections 701, 710, 712, and 713 of this act take effect July 1, 2012.

NEW SECTION. Sec. 716. If chapter . . . (Engrossed Substitute Senate Bill No. 6150), Laws of 2012 is not enacted by June 30, 2012, the appropriations in sections 703, 704, 706, 707, 709, and 711(1) of this act are null and void.

NEW SECTION. Sec. 717. If chapter . . . (Engrossed Substitute Senate Bill No. 6455), Laws of 2012 is not enacted by June 30, 2012, the appropriations in sections 702, 705, 708, 710, 711(2), 712, and 713 of this act are null and void.

**MISCELLANEOUS 2011-2013 FISCAL BIENNIUM**

NEW SECTION. Sec. 801. A new section is added to chapter 47.76 RCW to read as follows:

Funds deemed by the department of transportation, in consultation with relevant port districts, to be in excess of current operating needs or capital reserves of the grain train program may be transferred from the miscellaneous program account to the essential rail assistance account created in RCW 47.76.250 for the purpose of sustaining the grain train program.

Sec. 802. RCW 43.19.642 and 2010 c 247 s 701 are each amended to read as follows:

(1) Effective June 1, 2006, for agencies complying with the ultra-low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(2) Except as provided in subsection (5) of this section, effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel

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purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

(3) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file biannual reports with the department of ((general administration)) enterprise services documenting the use of the fuel and a description of how any problems encountered were resolved.

(4) ((For the 2009-2011 fiscal biennium, all fuel purchased by the Washington state ferries at Harbor Island for the operation of the Washington state ferries diesel-powered vessels must be a minimum of five percent biodiesel blend so long as the per gallon price of diesel containing a five percent biodiesel blend level does not exceed the per gallon price of diesel by more than five percent. If the per gallon price of diesel containing a five percent biodiesel blend level exceeds the per gallon price of diesel by more than five percent, the requirements of this section do not apply to vessel fuel purchases by the Washington state ferries.

(5)) By December 1, 2009, the department of ((general administration)) enterprise services shall:

(a) Report to the legislature on the average true price differential for biodiesel by blend and location; and

(b) Examine alternative fuel procurement methods that work to address potential market barriers for in-state biodiesel producers and report these findings to the legislature.

(5) During the 2011-2013 fiscal biennium, the Washington state ferries is required to use a minimum of five percent biodiesel as compared to total volume of all diesel purchased made by the Washington state ferries for the operation of the Washington state ferries diesel-powered vessels, as long as the price of a B5 biodiesel blend does not exceed the price of conventional diesel fuel by five percent or more.

**Sec. 803.** RCW 46.12.630 and 2011 c 171 s 37 are each amended to read as follows:

In addition to any other authority which it may have, the department of licensing may furnish lists of registered and legal owners of motor vehicles only for the purposes specified in this section to:

(1) The manufacturers of motor vehicles, or their authorized agents, to be used;

(a) To enable those manufacturers to carry out the provisions of the national traffic and motor vehicle safety act of 1966 (15 U.S.C. Sec. 1382-1418), including amendments or additions thereto, respecting safety-related defects in motor vehicles; or

(b) During the 2011-2013 fiscal biennium, in research activities, and in producing statistical reports, as long as the personal information is not published, redisclosed, or used to contact individuals;

(2) Any governmental agency of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency. Only such parts of the list as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor;

(3) A commercial parking company requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the disclosure agreement provisions of RCW 46.12.635 and the requirements of Executive Order 97-01, the department may provide only the parts of the list that are required for completion of the work required of the company;

(4) An authorized agent or contractor of the department, to be used only in connection with providing motor vehicle excise tax, licensing, title, and registration information to motor vehicle dealers;

(5) Any business regularly making loans to other persons to finance the purchase of motor vehicles, to be used to assist the

person requesting the list to determine ownership of specific vehicles for the purpose of determining whether or not to provide such financing; or

(6) A company or its agents operating a toll facility under chapter 47.46 RCW or other applicable authority requiring the names, addresses, and vehicle information of motor vehicle registered owners to identify toll violators.

Where both a mailing address and residence address are recorded on the vehicle record and are different, only the mailing address will be disclosed. Both addresses will be disclosed in response to requests for disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority and only for use in the normal course of conducting their business.

If a list of registered and legal owners of motor vehicles is used for any purpose other than that authorized in this section, the manufacturer, governmental agency, commercial parking company, authorized agent, contractor, financial institution, toll facility operator, or their authorized agents or contractors responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.

**Sec. 804.** RCW 46.44.0915 and 2011 c 115 s 1 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 railhead. The department may issue special permits to vehicles operating in the heavy haul industrial corridor to carry weight in excess of weight limits established in RCW 46.44.041, but not to exceed a gross vehicle weight of 139,994 pounds.

(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 in the vicinity of Taylor Way. 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. 805.** A new section is added to chapter 72.09 RCW to read as follows:

Prior to connection of the Washington correction center in Shelton to the city water system and consistent with Article II, section 40 of the state Constitution, the department must reimburse the state patrol highway account created in RCW 46.68.030 for any expenses incurred by the Washington state patrol for the department's share of the cost to construct a water line to the Washington state patrol's Shelton academy as identified in this act.

**NEW SECTION. Sec. 806.** If funding is provided in the 2012 supplemental omnibus capital appropriations act for more than \$2,047,000, for the purposes of constructing a water line to the Washington state patrol's Shelton academy, section 805 of this act is null and void.

**MISCELLANEOUS**

**NEW SECTION. Sec. 901.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 902.** Except for sections 701 through 713, 805, and 806 of this act, 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.

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On page 1, beginning on line 2 of the title, strike the remainder of the title and insert "amending RCW 43.19.642, 46.12.630, and 46.44.0915; amending 2011 c 367 ss 101, 103, 105, 106, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 401, 402, 403, 404, 405, 406, 407, 502, 503, 505, 603, and 608 (uncodified); adding a new section to chapter 47.76 RCW; adding a new section to chapter 72.09 RCW; adding new sections to 2011 c 367 (uncodified); creating new sections; repealing 2011 1st sp.s. c 50 ss 718, 719, 720, and 721 (uncodified); making appropriations and authorizing expenditures for capital improvements; providing effective dates; and declaring an emergency."

On page 52, line 25, strike "\$790,068,000" and insert "\$790,703,000"

On page 53, line 2, strike "\$4,829,368,000" and insert "4,830,003,000"

On page 61, after line 22, insert the following:

"(d) Within the amounts provided for this project, funding is provided solely for tolling equipment, such as gantries, barriers, or cameras, on Interstate 405, consistent with chapter 369, Laws of 2011. The department shall place amounts for tolling equipment into unalloted status until the traffic and revenue analysis required in

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RCW 47.56.886 is submitted to the governor and the legislature. Once the report has been submitted, the office of financial management may approve the allotment of funds for tolling equipment only after consultation with the joint transportation committee.

On page 66, line 22, strike “\$119,000,000 and insert “\$119,928,000”

And the bill do pass as recommended by the conference committee.

Signed by Senators Eide, Haugen and King; Representatives Armstrong, Billig and Clibborn.

MOTION

Senator Haugen moved that the Report of the Conference Committee on Engrossed Substitute House Bill No. 2190 be adopted.

Senators Haugen and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Report of the Conference Committee on Engrossed Substitute House Bill No. 2190 be adopted.

The motion by Senator Haugen carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2190, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2190, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 6; Absent, 0; Excused, 0.

Voting yea: Senators Baumgartner, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Schoesler, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Ericksen, Hill, Holmquist Newbry, Padden and Stevens

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2190, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5539,  
SENATE BILL NO. 5950,  
SUBSTITUTE SENATE BILL NO. 6073.

MOTION

On motion of Senator Eide, Engrossed Substitute House Bill No. 2190 was immediately transmitted to the House of Representatives.

MOTION

At 10:58 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:23 p.m. by President Owen.

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The Speaker has signed:

SECOND SUBSTITUTE SENATE BILL NO. 5355,  
SUBSTITUTE SENATE BILL NO. 5766,  
SUBSTITUTE SENATE BILL NO. 6135,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6150,  
SENATE BILL NO. 6159,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6383,  
SUBSTITUTE SENATE BILL NO. 6494,  
SUBSTITUTE SENATE BILL NO. 6600.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED HOUSE BILL NO. 1398,  
SUBSTITUTE HOUSE BILL NO. 2139,  
SUBSTITUTE HOUSE BILL NO. 2149,  
SUBSTITUTE HOUSE BILL NO. 2357,  
SECOND SUBSTITUTE HOUSE BILL NO. 2443,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2483,  
ENGROSSED HOUSE BILL NO. 2509,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2536,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2571,  
HOUSE BILL NO. 2803.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House receded from its amendment to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6284 and passed the bill without the House amendment.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 2262 and passed the bill as amended by the Senate.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6277 with the following amendment(s): 6277-S AMH HUNT PETE 026; 6277-S AMH LAND OLSE 040; 6277-S AMH DARN H4699.1

On page 1, line 11, strike "and counties"

On page 1, line 13, strike "or county"

On page 2, line 4, after "affordable housing." insert "It is an additional purpose of this chapter to allow certain counties to stimulate housing opportunities near college campuses to promote dense, transit-oriented, walkable college communities."

On page 7, line 5, after "(1)(a)(ii)(B)" insert ". For any multi-unit housing located in an unincorporated area of a county, a property owner seeking tax incentives under this chapter must commit to renting or selling at least twenty percent of the multi-family housing units as affordable housing units to low-and moderate-income households. In the case of multi-unit housing intended exclusively for owner occupancy, the minimum requirement of this subsection (6) may be satisfied solely through housing affordable to moderate-income households"

On page 4, beginning on line 3, after "plan." strike all material through "RCW 36.70A.110." on line 6

On page 4, line 17, after "systems;" strike "~~((and))~~" and insert "and"

On page 4, beginning on line 20, after "use" strike all material through "section" on line 24

On page 5, line 32, after "available;" strike "and" and insert "~~((and))~~"

On page 5, line 36, after "chapter" insert "; and

(d) If the residential targeted area is designated by a county, the area must be located in an unincorporated area of the county that is within an urban growth area under RCW 36.70A.110 and the area must include a campus of an institution of higher education, as defined in RCW 28B.92.030, where at least one thousand two hundred students live on campus during the academic year"

On page 8, line 16, after "plan" strike all material through "(d)" and insert ", except as provided in RCW 84.14.040(1)(d)" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Conway moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6277.

Senator Conway spoke in favor of the motion.

MOTION

On motion of Senator Harper, Senators Haugen and Hobbs were excused.

The President declared the question before the Senate to be the motion by Senator Conway that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6277.

The motion by Senator Conway carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6277 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6277, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6277, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Baumgartner, Becker, Brown, Carrell, Chase, Conway, Delvin, Eide, Ericksen, Fain, Fraser, Frockt, Hargrove, Harper, Hatfield, Hewitt, Hill, Hobbs, Kastama, Keiser, Kilmer, King, Kline, Kohl-Welles, Litzow, McAuliffe, Morton, Murray, Nelson, Padden, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rolfes, Sheldon, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Benton, Holmquist Newbry, Honeyford, Parlette, Schoesler and Stevens

Excused: Senator Haugen

SUBSTITUTE SENATE BILL NO. 6277, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

STATEMENT FOR THE JOURNAL

I support Substitute Senate Bill No. 6277 and accidentally voted 'No'.

SENATOR PARLETTE, 12<sup>TH</sup> Legislative District

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED HOUSE BILL NO. 1398,  
SUBSTITUTE HOUSE BILL NO. 2139,  
SUBSTITUTE HOUSE BILL NO. 2149,  
SUBSTITUTE HOUSE BILL NO. 2357,  
SECOND SUBSTITUTE HOUSE BILL NO. 2443,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2483,  
ENGROSSED HOUSE BILL NO. 2509,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2536,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2571,  
HOUSE BILL NO. 2803.

Senator Prentice assumed the chair.

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8410, by Senators Brown and Hewitt

Returning bills to their house of origin.

The measure was read the second time.

MOTION

SIXTIETH DAY, MARCH 8, 2012

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On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8410 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

The President Pro Tempore declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8410.

SENATE CONCURRENT RESOLUTION NO. 8410 was adopted on third reading by voice vote.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8411, by Senators Brown and Hewitt

Adjourning SINE DIE.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8411 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

The President Pro Tempore declared the question before the senate to be the final passage of Senate Concurrent Resolution No. 8411.

SENATE CONCURRENT RESOLUTION NO. 8411 was adopted on third reading by voice vote.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Eide moved adoption of the following resolution:

SENATE RESOLUTION  
8706

By Senators Brown and Hewitt

WHEREAS, The 2012 Regular Session of the Sixty-second Legislature is drawing to a close; and

WHEREAS, It is necessary to provide for the completion of the work of the Senate after its adjournment and during the interim period between the close of the 2012 Regular Session of the Sixty-second Legislature and the convening of the next regular session; and

WHEREAS, The state is experiencing extreme budget pressures and the Senate desires to promote efficiencies and savings within its own internal budget by maintaining certain travel, salary, hiring, contract, and expenditure controls and limitations throughout the fiscal year;

NOW, THEREFORE, BE IT RESOLVED, That the Senate Facilities and Operations Committee shall have full authority and direction over the authorization and execution of any contracts or subcontracts that necessitate the expenditure of Senate appropriations, subject to all applicable budget controls and limitations; and

BE IT FURTHER RESOLVED, That the Senate Facilities and Operations Committee may, as they deem appropriate, authorize

travel for which members and staff may receive therefor their actual necessary expenses, and such per diem as may be authorized by law, subject to all applicable budget controls and limitations, to be paid upon receipt of their vouchers out of funds appropriated for legislative expenses; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Senate Facilities and Operations Committee be, and they hereby are, authorized to retain such employees as they may deem necessary and that said employees be allowed such rate of pay therefor, subject to all applicable budget controls and limitations, as the Secretary of the Senate and the Senate Facilities and Operations Committee shall deem proper; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and he or she hereby is, authorized and directed to make out and execute the necessary vouchers upon which warrants for legislative expenses and expenditures shall be drawn from funds provided therefor; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Facilities and Operations Committee be, and they hereby are, authorized to approve written requests by standing committees to meet during the interim period; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and hereby is, authorized and directed to have printed a copy of the Senate Journals of the 2012 Regular Session of the Sixty-second Legislature; and

BE IT FURTHER RESOLVED, That the Rules Committee is authorized to assign subject matters to standing committees for study during the interim, and the Majority Leader is authorized to create special committees as may be necessary to carry out the functions of the Senate in an orderly manner and appoint members thereto with the approval of the Facilities and Operations Committee; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate is authorized to express the sympathy of the Senate by sending flowers or memorials in the event of a bereavement in the legislative "family"; and

BE IT FURTHER RESOLVED, That such use of the Senate facilities is permitted upon such terms as the Secretary of the Senate shall deem proper.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8706.

The motion by Senator Eide carried and the resolution was adopted by voice vote.

MOTION

On motion of Senator Eide and without objection, all measures remaining on the second and third reading calendars and those that are held at the desk were referred to the Committee on Rules.

MOTION

On motion of Senator Eide, the reading of the Journal for the 60<sup>th</sup> day of the Regular Session of the 62<sup>nd</sup> Legislature was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

March 8, 2012

BARBARA BAKER, Chief Clerk

MR. PRESIDENT:

The House has adopted:

SENATE CONCURRENT RESOLUTION NO. 8410,  
SENATE CONCURRENT RESOLUTION NO. 8411.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SENATE CONCURRENT RESOLUTION NO. 8410,  
SENATE CONCURRENT RESOLUTION NO. 8411.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 6277,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 6284,  
SUBSTITUTE SENATE BILL NO. 6492,

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 5539,  
SENATE BILL NO. 5950,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5978,  
SUBSTITUTE SENATE BILL NO. 6073,  
SUBSTITUTE SENATE BILL NO. 6277,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 6284,

SUBSTITUTE SENATE BILL NO. 6492,  
SENATE CONCURRENT RESOLUTION NO. 8410,  
SENATE CONCURRENT RESOLUTION NO. 8411  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The House has adopted the report of the Conference Committee  
on ENGROSSED SUBSTITUTE HOUSE BILL NO. 2190 and  
has passed the bill as recommended by the Conference  
Committee.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2190,  
ENGROSSED HOUSE BILL NO. 2262,  
ENGROSSED HOUSE BILL NO. 2660.

and the same are herewith transmitted.

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2190,  
ENGROSSED HOUSE BILL NO. 2262,  
ENGROSSED HOUSE BILL NO. 2660.

MESSAGE FROM THE HOUSE

March 8, 2012

MR. PRESIDENT:

Under the provisions of SENATE CONCURRENT  
RESOLUTION NO. 8410, the following Senate bills are returned  
to the Senate:

SUBSTITUTE SENATE BILL NO. 5069,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5154,  
SUBSTITUTE SENATE BILL NO. 5190,  
SUBSTITUTE SENATE BILL NO. 5197,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 5250,  
SECOND SUBSTITUTE SENATE BILL NO. 5251,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 5366,  
SENATE BILL NO. 5401,  
SENATE BILL NO. 5404,  
SECOND SUBSTITUTE SENATE BILL NO. 5553,  
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ENGROSSED SUBSTITUTE SENATE BILL NO. 6009,  
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SUBSTITUTE SENATE BILL NO. 6027,  
SUBSTITUTE SENATE BILL NO. 6056,  
SUBSTITUTE SENATE BILL NO. 6068,  
SUBSTITUTE SENATE BILL NO. 6070,  
SUBSTITUTE SENATE BILL NO. 6075,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6078,  
SENATE BILL NO. 6079,  
SUBSTITUTE SENATE BILL NO. 6088,  
SENATE BILL NO. 6109,  
SECOND SUBSTITUTE SENATE BILL NO. 6120,  
SUBSTITUTE SENATE BILL NO. 6123,  
SUBSTITUTE SENATE BILL NO. 6142,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6147,  
ENGROSSED SENATE BILL NO. 6162,  
SECOND SUBSTITUTE SENATE BILL NO. 6165,  
SUBSTITUTE SENATE BILL NO. 6169,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6170,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6180,  
SUBSTITUTE SENATE BILL NO. 6197,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 6204,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
NO. 6211,

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SUBSTITUTE SENATE BILL NO. 6216,  
 ENGROSSED SENATE BILL NO. 6217,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6227,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL  
 NO. 6232,  
 SENATE BILL NO. 6250,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6260,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6280,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6312,  
 SENATE BILL NO. 6324,  
 SENATE BILL NO. 6340,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6345,  
 SENATE BILL NO. 6349,  
 SENATE BILL NO. 6350,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6356,  
 SUBSTITUTE SENATE BILL NO. 6365,  
 ENGROSSED SENATE BILL NO. 6378,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6392,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6406,  
 SUBSTITUTE SENATE BILL NO. 6407,  
 SENATE BILL NO. 6440,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6462,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6477,  
 SENATE BILL NO. 6498,  
 SUBSTITUTE SENATE BILL NO. 6507,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6512,  
 SENATE BILL NO. 6523,  
 SENATE BILL NO. 6571,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6582,  
 ENGROSSED SENATE BILL NO. 6589,  
 SUBSTITUTE SENATE BILL NO. 6598,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6607,  
 SENATE BILL NO. 6615,  
 SENATE BILL NO. 6616,  
 ENGROSSED SENATE JOINT RESOLUTION NO. 8221,  
 ENGROSSED SENATE JOINT RESOLUTION NO. 8222,  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Under the provisions of SENATE CONCURRENT  
 RESOLUTION NO. 8410, the following House Bills were  
 returned to the House of Representatives:

ENGROSSED HOUSE BILL NO. 1050,  
 HOUSE BILL NO. 1221,  
 SUBSTITUTE HOUSE BILL NO. 1259,  
 HOUSE BILL NO. 1327,  
 SUBSTITUTE HOUSE BILL NO. 1349,  
 SUBSTITUTE HOUSE BILL NO. 1615,  
 SUBSTITUTE HOUSE BILL NO. 1650,  
 SUBSTITUTE HOUSE BILL NO. 1699,  
 HOUSE BILL NO. 2232,  
 HOUSE BILL NO. 2275,  
 HOUSE BILL NO. 2280,  
 HOUSE BILL NO. 2283,  
 HOUSE BILL NO. 2285,  
 SUBSTITUTE HOUSE BILL NO. 2296,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2330,  
 SUBSTITUTE HOUSE BILL NO. 2375,  
 SUBSTITUTE HOUSE BILL NO. 2395,  
 HOUSE BILL NO. 2396,  
 HOUSE BILL NO. 2400,  
 SUBSTITUTE HOUSE BILL NO. 2439,  
 ENGROSSED HOUSE BILL NO. 2449,

ENGROSSED HOUSE BILL NO. 2457,  
 HOUSE BILL NO. 2474,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
 2501,  
 ENGROSSED HOUSE BILL NO. 2513,  
 SUBSTITUTE HOUSE BILL NO. 2601,  
 SUBSTITUTE HOUSE BILL NO. 2603,  
 SUBSTITUTE HOUSE BILL NO. 2608,  
 HOUSE BILL NO. 2639,  
 HOUSE BILL NO. 2643,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2669,  
 HOUSE BILL NO. 2697,  
 HOUSE BILL NO. 2698,  
 SUBSTITUTE HOUSE BILL NO. 2736.

MOTION

Under the provisions of SENATE CONCURRENT  
 RESOLUTION NO. 8410, the following House Bills were  
 returned to the House of Representatives:

SUBSTITUTE HOUSE BILL NO. 1081,  
 HOUSE BILL NO. 1207,  
 SUBSTITUTE HOUSE BILL NO. 1217,  
 SUBSTITUTE HOUSE BILL NO. 1470,  
 SUBSTITUTE HOUSE BILL NO. 1518,  
 HOUSE BILL NO. 1669,  
 SUBSTITUTE HOUSE BILL NO. 1753,  
 HOUSE BILL NO. 1833,  
 SUBSTITUTE HOUSE BILL NO. 1852,  
 SUBSTITUTE HOUSE BILL NO. 2010,  
 SUBSTITUTE HOUSE BILL NO. 2196,  
 ENGROSSED HOUSE BILL NO. 2205,  
 SUBSTITUTE HOUSE BILL NO. 2218,  
 HOUSE BILL NO. 2219,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2228,  
 SUBSTITUTE HOUSE BILL NO. 2234,  
 HOUSE BILL NO. 2235,  
 HOUSE BILL NO. 2240,  
 HOUSE BILL NO. 2242,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
 2253,  
 HOUSE BILL NO. 2256,  
 SUBSTITUTE HOUSE BILL NO. 2272,  
 HOUSE BILL NO. 2287,  
 HOUSE BILL NO. 2339,  
 HOUSE BILL NO. 2343,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2344,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
 2365,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2372,  
 HOUSE BILL NO. 2401,  
 SUBSTITUTE HOUSE BILL NO. 2407,  
 SUBSTITUTE HOUSE BILL NO. 2416,  
 ENGROSSED HOUSE BILL NO. 2417,  
 SUBSTITUTE HOUSE BILL NO. 2421,  
 HOUSE BILL NO. 2441,  
 HOUSE BILL NO. 2442,  
 HOUSE BILL NO. 2476,  
 HOUSE BILL NO. 2488,  
 SUBSTITUTE HOUSE BILL NO. 2491,  
 SUBSTITUTE HOUSE BILL NO. 2503,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2510,  
 SUBSTITUTE HOUSE BILL NO. 2512,  
 HOUSE BILL NO. 2524,  
 ENGROSSED HOUSE BILL NO. 2558,  
 HOUSE BILL NO. 2566,

SUBSTITUTE HOUSE BILL NO. 2578,  
 SUBSTITUTE HOUSE BILL NO. 2590,  
 HOUSE BILL NO. 2595,  
 SUBSTITUTE HOUSE BILL NO. 2605,  
 SUBSTITUTE HOUSE BILL NO. 2607,  
 SUBSTITUTE HOUSE BILL NO. 2615,  
 HOUSE BILL NO. 2624,  
 SUBSTITUTE HOUSE BILL NO. 2658,  
 SUBSTITUTE HOUSE BILL NO. 2668,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2717,  
 HOUSE BILL NO. 2735,  
 SUBSTITUTE HOUSE BILL NO. 2748.

MOTION

Under the provisions of SENATE CONCURRENT RESOLUTION NO. 8410, the following House Bills were returned to the House of Representatives:

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1144,  
 SUBSTITUTE HOUSE BILL NO. 1253,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1256,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1508,  
 SUBSTITUTE HOUSE BILL NO. 1556,  
 SUBSTITUTE HOUSE BILL NO. 1568,  
 SUBSTITUTE HOUSE BILL NO. 1865,  
 ENGROSSED HOUSE BILL NO. 1900,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2127,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2170,  
 SUBSTITUTE HOUSE BILL NO. 2176,  
 HOUSE BILL NO. 2179,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2211,  
 HOUSE BILL NO. 2257,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2265,  
 SUBSTITUTE HOUSE BILL NO. 2270,  
 SECOND SUBSTITUTE HOUSE BILL NO. 2289,  
 HOUSE BILL NO. 2292,  
 SUBSTITUTE HOUSE BILL NO. 2297,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2331,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2335,  
 HOUSE BILL NO. 2353,

SUBSTITUTE HOUSE BILL NO. 2355,  
 ENGROSSED HOUSE BILL NO. 2368,  
 HOUSE BILL NO. 2370,  
 HOUSE BILL NO. 2405,  
 SUBSTITUTE HOUSE BILL NO. 2458,  
 HOUSE BILL NO. 2471,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2553,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2565,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2587,  
 ENGROSSED HOUSE BILL NO. 2602,  
 HOUSE BILL NO. 2604,  
 HOUSE BILL NO. 2610,  
 SUBSTITUTE HOUSE BILL NO. 2648,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2650,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2722,  
 HOUSE BILL NO. 2725,  
 SUBSTITUTE HOUSE BILL NO. 2733,  
 HOUSE BILL NO. 2738,  
 HOUSE BILL NO. 2741.

MOTION

At 12:06 a.m., on motion of Senator Eide, the 2012 Regular Session of the Sixty-Second Legislature adjourned SINE DIE.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate



1050	President Signed.....	71
Other Action.....	125	
1057-S	Speaker Signed.....	50
President Signed.....	71	
Speaker Signed.....	50	
1081-S		
Other Action.....	125	
1144-S2		
Other Action.....	126	
1207		
Other Action.....	125	
1217-S		
Other Action.....	125	
1221		
Other Action.....	125	
1253-S		
Other Action.....	126	
1256-S		
Other Action.....	126	
1259-S		
Other Action.....	125	
1327		
Other Action.....	125	
1349-S		
Other Action.....	125	
1398		
Messages.....	12, 51	
Other Action.....	12, 13	
President Signed.....	122	
Second Reading.....	12	
Speaker Signed.....	121	
Third Reading Final Passage.....	13	
1470-S		
Other Action.....	125	
1508-S		
Other Action.....	126	
1518-S		
Other Action.....	125	
1552-S		
President Signed.....	71	
Speaker Signed.....	50	
1556-S		
Other Action.....	126	
1559-S		
President Signed.....	71	
Speaker Signed.....	50	
1568-S		
Other Action.....	126	
1615-S		
Other Action.....	125	
1627-S		
President Signed.....	71	
Speaker Signed.....	50	
1650-S		
Other Action.....	125	
1669		
Other Action.....	125	
1699-S		
Other Action.....	125	
1753-S		
Other Action.....	125	
1833		
Other Action.....	125	
1852-S		
Other Action.....	125	
1860-S3		
President Signed.....	71	
Speaker Signed.....	50	
1865-S		
Other Action.....	126	
1900		
Other Action.....	126	
1983-S		
President Signed.....	71	
Speaker Signed.....	50	
2010-S		
Other Action.....	125	
2048-S		
President Signed.....	71	
Speaker Signed.....	50	
2127-S		
Other Action.....	126	
2139-S		
Introduction & 1 <sup>st</sup> Reading.....	51	
Messages.....	34	
Other Action.....	51	
President Signed.....	122	
Second Reading.....	73	
Speaker Signed.....	121	
Third Reading Final Passage.....	73	
2149-S		
President Signed.....	122	
Second Reading.....	51	
Speaker Signed.....	121	
Third Reading Final Passage.....	52	
2170-S2		
Other Action.....	126	
2176-S		
Other Action.....	126	
2177-S		
President Signed.....	71	
Speaker Signed.....	50	
2179		
Other Action.....	126	
2190-S		
FP as rec by CC.....	121	
Messages.....	124	
President Signed.....	124	
Speaker Signed.....	124	
2196-S		
Other Action.....	125	
2197-S		
President Signed.....	71	
Speaker Signed.....	50	
2205		
Other Action.....	125	
2211-S2		
Other Action.....	126	
2218-S		
Other Action.....	125	
2219		
Other Action.....	125	
2228-S		
Other Action.....	125	
2232		
Other Action.....	125	
2233-S		
President Signed.....	71	
Speaker Signed.....	50	
2234-S		
Other Action.....	125	
2235		

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Other Action.....	125	President Signed.....	71
2240		Speaker Signed .....	51
Other Action.....	125	2319-S2	
2242		President Signed.....	71
Other Action.....	125	Speaker Signed .....	51
2252-S		2326-S	
President Signed.....	71	President Signed.....	71
Speaker Signed.....	50	Speaker Signed .....	51
2253-S2		2329	
Other Action.....	125	President Signed.....	71
2254-S		Speaker Signed .....	51
President Signed.....	71	2330-S	
Speaker Signed.....	50	Other Action .....	125
2256		2331-S	
Other Action.....	125	Other Action .....	126
2257		2335-S	
Other Action.....	126	Other Action .....	126
2261-S		2337-S2	
President Signed.....	71	President Signed.....	71
Speaker Signed.....	50	Speaker Signed .....	51
2262		2339	
Introduction & 1 <sup>st</sup> Reading .....	70	Other Action .....	125
Messages .....	71, 121	2343	
President Signed.....	124	Other Action .....	125
Second Reading.....	72	2344-S	
Speaker Signed.....	124	Other Action .....	125
Third Reading Final Passage .....	72	2347-S	
2263-S		President Signed.....	71
President Signed.....	71	Speaker Signed .....	51
Speaker Signed.....	50	2349-S	
2264-S2		President Signed.....	71
Messages .....	1	Speaker Signed .....	51
President Signed.....	71	2353	
Speaker Signed.....	51	Other Action .....	126
2265-S2		2355-S	
Other Action.....	126	Other Action .....	126
2270-S		2357-S	
Other Action.....	126	Introduction & 1 <sup>st</sup> Reading.....	51
2272-S		Messages.....	51
Other Action.....	125	Other Action .....	51
2275		President Signed.....	122
Other Action.....	125	Second Reading .....	73
2280		Speaker Signed .....	121
Other Action.....	125	Third Reading Final Passage.....	73
2283		2361-S	
Other Action.....	125	President Signed.....	71
2285		Speaker Signed .....	51
Other Action.....	125	2363-S	
2287		President Signed.....	71
Other Action.....	125	Speaker Signed .....	51
2289-S2		2365-S2	
Other Action.....	126	Other Action .....	125
2292		2368	
Other Action.....	126	Other Action .....	126
2296-S		2370	
Other Action.....	125	Other Action .....	126
2297-S		2372-S	
Other Action.....	126	Other Action .....	125
2308		2373-S2	
President Signed.....	71	Messages.....	1
Speaker Signed.....	51	Other Action .....	49
2313-S		President Signed.....	71
President Signed.....	71	Speaker Signed .....	51
Speaker Signed.....	51	2375-S	
2314-S		Other Action .....	125

2395-S	Other Action .....	125	2503-S	Other Action .....	125
2396	Other Action .....	125	2509	Messages .....	64, 71
2400	Other Action .....	125		Other Action .....	64, 65
2401	Other Action .....	125		President Signed .....	122
2405	Other Action .....	126		Second Reading .....	64
2407-S	Other Action .....	125		Speaker Signed .....	121
2416-S	Other Action .....	125		Third Reading Final Passage .....	65
2417	Other Action .....	125	2510-S	Other Action .....	125
2421-S	Other Action .....	125	2512-S	Other Action .....	125
2439-S	Other Action .....	125	2513	Other Action .....	125
2441	Other Action .....	125	2524	Other Action .....	125
2442	Other Action .....	125	2535	President Signed .....	71
2443-S2	Messages .....	71		Speaker Signed .....	51
	Other Action .....	63	2536-S2	Messages .....	13, 33
	President Signed .....	122		Other Action .....	13, 15
	Second Reading .....	52		President Signed .....	122
	Speaker Signed .....	121		Second Reading .....	13
	Third Reading Final Passage .....	63		Speaker Signed .....	121
2449	Other Action .....	125		Third Reading Final Passage .....	15
2452-S2	President Signed .....	71	2553-S	Other Action .....	126
	Speaker Signed .....	51	2558	Other Action .....	125
2457	Other Action .....	125	2565-S2	Introduction & 1 <sup>st</sup> Reading .....	2
2458-S	Other Action .....	126		Other Action .....	126
2471	Other Action .....	126	2566	Other Action .....	125
2474	Other Action .....	125	2567-S	President Signed .....	71
2476	Other Action .....	125		Speaker Signed .....	51
2482	President Signed .....	71	2570-S	President Signed .....	71
	Speaker Signed .....	51		Speaker Signed .....	51
2483-S2	Messages .....	33	2571-S	President Signed .....	122
	President Signed .....	122		Second Reading .....	88
	Second Reading .....	4		Speaker Signed .....	121
	Speaker Signed .....	121		Third Reading Final Passage .....	88
	Third Reading Final Passage .....	5	2578-S	Other Action .....	126
2485	President Signed .....	71	2582-S	President Signed .....	71
	Speaker Signed .....	51		Speaker Signed .....	51
2488	Other Action .....	125	2585-S3	Messages .....	1
2491-S	Other Action .....	125		President Signed .....	71
2499	President Signed .....	71		Speaker Signed .....	51
	Speaker Signed .....	51	2586-S	President Signed .....	71
2501-S2				Speaker Signed .....	51
			2587-S2	Other Action .....	126
			2590-S	Other Action .....	126
			2595	Other Action .....	126
				Other Action .....	126

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2601-S	Other Action .....	125	Other Action .....	125
2602	Other Action .....	126	2717-S2	Other Action .....
2603-S	Other Action .....	125	2722-S	Other Action .....
2604	Other Action .....	126	2725	Other Action .....
2605-S	Other Action .....	126	2733-S	Other Action .....
2607-S	Other Action .....	126	2735	Other Action .....
2608-S	Other Action .....	125	2736-S	Other Action .....
2610	Other Action .....	126	2738	Other Action .....
2614-S	President Signed .....	71	2741	Other Action .....
	Speaker Signed .....	51	2748-S	Other Action .....
2615-S	Other Action .....	126	2771	President Signed .....
2617-S	President Signed .....	71		Speaker Signed .....
	Speaker Signed .....	51	2799-S	President Signed .....
2620	President Signed .....	71		Second Reading .....
	Second Reading .....	5		Speaker Signed .....
	Speaker Signed .....	51		Third Reading Final Passage .....
	Third Reading Final Passage .....	5	2803	Messages .....
2624	Other Action .....	126		Other Action .....
2639	Other Action .....	125		President Signed .....
2640-S	President Signed .....	71		Second Reading .....
	Speaker Signed .....	51		Speaker Signed .....
2643	Other Action .....	125		Third Reading Final Passage .....
2648-S	Other Action .....	126	4410	Other Action .....
2650-S	Other Action .....	126	5069-S	Messages .....
2658-S	Other Action .....	126	5154-S	Messages .....
2660	Introduction & 1 <sup>st</sup> Reading .....	89	5159	Speaker Signed .....
	Messages .....	89	5188-S2	Speaker Signed .....
	Other Action .....	89	5190-S	Messages .....
	President Signed .....	124	5197-S	Messages .....
	Second Reading .....	89	5217-S	Speaker Signed .....
	Speaker Signed .....	124	5246-S	Speaker Signed .....
	Third Reading Final Passage .....	89	5250-S2	Messages .....
2668-S	Other Action .....	126	5251-S2	Messages .....
2669-S	Other Action .....	125	5343-S2	Speaker Signed .....
2673-S	President Signed .....	71	5355-S2	Final Passage as amended by House .....
	Speaker Signed .....	51		Messages .....
2692-S	President Signed .....	71		Other Action .....
	Speaker Signed .....	51		President Signed .....
2697	Other Action .....	125		Speaker Signed .....
2698			5366-S2	

Messages .....	124	Speaker Signed .....	50
5401		6044-S	
Messages .....	124	Speaker Signed .....	50
5404		6056-S	
Messages .....	124	Messages .....	124
5539-S2		6068-S	
Messages .....	74	Messages .....	124
President Signed .....	121	6070-S	
Speaker Signed .....	124	Messages .....	124
5553-S2		6073-S	
Messages .....	124	Messages .....	74
5556-S		President Signed .....	121
Messages .....	124	Speaker Signed .....	124
5576-S2		6075-S	
Messages .....	124	Messages .....	124
5661		6078-S	
Speaker Signed .....	50	Messages .....	124
5697-S		6079	
Messages .....	124	Messages .....	124
5730-S2		6081-S	
Messages .....	124	Speaker Signed .....	50
5766-S		6082	
Final Passage as amended by House .....	33	Speaker Signed .....	50
Messages .....	33	6088-S	
Other Action .....	33	Messages .....	124
President Signed .....	35	6103-S	
Speaker Signed .....	121	Speaker Signed .....	50
5873		6105-S	
Messages .....	124	Speaker Signed .....	50
Other Action .....	11	6109	
Second Reading .....	7	Messages .....	124
Third Reading Final Passage .....	11	6116-S	
5950		Speaker Signed .....	50
Final Passage as amended by House .....	74	6120-S2	
Messages .....	73	Messages .....	124
Other Action .....	74	6123-S	
President Signed .....	121	Messages .....	124
Speaker Signed .....	124	6134	
5977-S		Speaker Signed .....	50
Messages .....	124	6135-S	
5978-S		Final Passage as amended by House .....	32
Final Passage as amended by House .....	88	Messages .....	15
Messages .....	80	Other Action .....	32
Other Action .....	88	President Signed .....	35
Speaker Signed .....	124	Speaker Signed .....	121
5982-S		6138-S	
Speaker Signed .....	50	President Signed .....	4
5990-S		Speaker Signed .....	50
Messages .....	124	6140-S2	
5995-S		Speaker Signed .....	50
Speaker Signed .....	50	6142-S	
5996-S		Messages .....	124
Messages .....	124	6147-S	
5997-S		Messages .....	124
Speaker Signed .....	50	6150-S	
6009-S		FP as rec by CC .....	41
Messages .....	124	Messages .....	35
6010-S		President Signed .....	71
Messages .....	124	Speaker Signed .....	121
6023-S2		6155	
Messages .....	124	Speaker Signed .....	50
6025-S		6159	
Messages .....	124	Messages .....	51
6027-S		President Signed .....	35
Messages .....	124	Speaker Signed .....	121
6041-S		6162	

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Messages .....	124	Speaker Signed .....	124
6165-S2		6312-S	
Messages .....	124	Messages .....	125
6169-S		6324	
Messages .....	124	Messages .....	125
6170-S		6328-S	
Messages .....	124	Speaker Signed .....	50
6180-S		6340	
Messages .....	124	Messages .....	125
6197-S		6345-S	
Messages .....	124	Messages .....	125
6204-S2		6349	
Messages .....	124	Messages .....	125
6211-S2		6350	
Messages .....	124	Messages .....	125
6215		6354-S	
Speaker Signed .....	50	Speaker Signed .....	50
6216-S		6355-S	
Messages .....	125	Speaker Signed .....	50
6217		6356-S	
Messages .....	125	Messages .....	125
6223		6359-S	
Speaker Signed .....	50	Speaker Signed .....	50
6226-S		6365-S	
President Signed .....	4	Messages .....	125
Speaker Signed .....	50	6378	
6227-S		Messages .....	125
Messages .....	125	6383-S	
6232-S2		Final Passage as amended by House .....	33
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