

EIGHTY SIXTH DAY

House Chamber, Olympia, Tuesday, April 7, 2015

The House was called to order at 9:55 a.m. by the Speaker (Representative Orwall presiding).

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

MESSAGES FROM THE SENATE

April 6, 2015

MR. SPEAKER:

The Senate has passed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5077
and the same is herewith transmitted.

Hunter G. Goodman, Secretary

April 6, 2015

MR. SPEAKER:

The Senate has passed:

SUBSTITUTE SENATE BILL NO. 6088
and the same is herewith transmitted.

Hunter G. Goodman, Secretary

There being no objection, the House advanced to the fourth order of business.

INTRODUCTION & FIRST READING

2SSB 5105 by Senate Committee on Ways & Means (originally sponsored by Senators Padden, Frockt, O'Ban, Fain, Fraser, Pearson, Roach and Darneille)

AN ACT Relating to making a fourth driving under the influence offense a felony; amending RCW 46.61.502, 46.61.504, 46.61.5055, and 46.61.5054; reenacting and amending RCW 9.94A.515; and prescribing penalties.

Referred to Committee on Public Safety.

2SSB 5315 by Senate Committee on Ways & Means (originally sponsored by Senators Roach, Liias, McCoy, Pearson and Benton)

AN ACT Relating to aligning functions of the consolidated technology services agency, office of the chief information officer, office of financial management, and department of enterprise services; amending RCW 43.41A.003, 43.105.020, 43.105.047, 43.105.052, 43.105.111, 43.105.178, 43.105.825, 41.07.020, 43.41A.025, 43.41A.010, 43.41A.027, 43.41A.030, 43.41A.035, 43.41A.040, 43.41A.045, 43.41A.050, 43.41A.055, 43.41A.060, 43.41A.065, 43.41A.070, 43.41A.075, 43.41A.080, 43.41A.130, 43.41A.140, 43.41A.150, 43.41A.152, 4.92.006, 4.92.100,

4.92.280, 41.04.720, 41.04.770, 41.06.395, 41.06.400, 41.06.510, 41.06.530, 41.80.005, 43.01.135, 43.06.013, 43.19.766, 43.19.778, 43.41.110, 43.41A.085, 43.41A.095, 43.41A.105, 48.64.010, 43.88.160, 2.36.054, 2.36.057, 2.36.0571, 2.68.060, 19.34.100, 36.28A.070, 41.06.094, 42.17A.705, 43.15.020, 43.19.794, 43.70.054, 43.88.090, 43.88.092, 44.68.065, 70.58.005, and 41.06.280; reenacting and amending RCW 48.62.021; adding new sections to chapter 43.105 RCW; adding new sections to chapter 43.41 RCW; adding a new section to chapter 43.19 RCW; creating new sections; recodifying RCW 43.41A.003, 43.41A.010, 43.41A.025, 43.41A.027, 43.41A.030, 43.41A.035, 43.41A.040, 43.41A.045, 43.41A.050, 43.41A.055, 43.41A.060, 43.41A.065, 43.41A.070, 43.41A.075, 43.41A.080, 43.41A.110, 43.41A.115, 43.41A.130, 43.41A.135, 43.41A.140, 43.41A.150, 43.41A.152, 43.41A.900, 43.105.047, 43.41A.085, 43.41A.090, 43.41A.095, 43.41A.100, 43.41A.105, 43.19.760, 43.19.763, 43.19.766, 43.19.769, 43.19.772, 43.19.775, 43.19.778, 43.19.781, and 43.19.784; decodifying RCW 43.41A.125; repealing RCW 43.41A.006, 43.41A.015, 43.41A.020, 43.41A.120, 43.105.041, 43.105.330, 43.105.340, and 43.19.791; providing effective dates; and declaring an emergency.

Referred to Committee on Appropriations.

SSB 5681 by Senate Committee on Ways & Means (originally sponsored by Senators Hill and Angel)

AN ACT Relating to state lottery accounts; and amending RCW 67.70.190, 67.70.240, and 67.70.260.

Referred to Committee on Appropriations.

SSB 6045 by Senate Committee on Ways & Means (originally sponsored by Senators Becker and Frockt)

AN ACT Relating to continuation of the hospital safety net assessment for two additional biennia; amending RCW 74.60.005, 74.60.020, 74.60.030, 74.60.050, 74.60.090, 74.60.100, 74.60.120, 74.60.130, 74.60.150, 74.60.160, and 74.60.901; providing an expiration date; and declaring an emergency.

Referred to Committee on Appropriations.

ESSB 6062 by Senate Committee on Ways & Means (originally sponsored by Senator Hill)

AN ACT Relating to marijuana regulations; amending RCW 69.50.535, 69.50.325, 69.50.339, and 66.08.012; adding new sections to chapter 69.50 RCW; repealing RCW 69.50.530, 69.50.540, 69.50.545, and 69.50.550; providing an effective date; and declaring an emergency.

Referred to Committee on Finance.

Committee on General Government &
Information Technology

ESB 6089 by Senator Hill

AN ACT Relating to health benefit exchange sustainability; amending RCW 43.71.010, 43.71.030, 43.71.060, 43.71.080, 48.14.0201, and 48.14.020; and declaring an emergency.

Referred to Committee on Health Care & Wellness.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

There being no objection, the House advanced to the fifth order of business.

REPORTS OF STANDING COMMITTEES

April 3, 2015
HB 1458 Prime Sponsor, Representative Orwall:
Concerning the age of individuals at which sale or distribution of tobacco and vapor products may be made. Reported by Committee on Finance

MAJORITY recommendation: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Health Care & Wellness. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Fitzgibbon; Pollet; Reykdal; Robinson; Ryu; Springer and Wylie.

MINORITY recommendation: Do not pass. Signed by Representatives Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Manweller; Stokesbary; Vick and Wilcox.

Passed to Committee on Rules for second reading.

April 1, 2015
HB 2087 Prime Sponsor, Representative Fey: Concerning vehicles powered by clean alternative fuel. Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist; Gregerson; Harmsworth; Hayes; Kochmar; McBride; Moeller; Riccelli; Rodne; Sells; Tarleton and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representatives Shea; Takko and Young.

MINORITY recommendation: Without recommendation. Signed by Representative Wilson.

Referred to Committee on Appropriations.

April 2, 2015
SB 5070 Prime Sponsor, Senator Pearson: Requiring the department of corrections to supervise domestic violence offenders who have a conviction and were sentenced for a domestic violence felony offense that was plead and proven. Reported by

MAJORITY recommendation: Do pass as amended by Committee on General Government & Information Technology and without amendment by Committee on Public Safety.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.501 and 2013 2nd sp.s. c 35 s 15 are each amended to read as follows:

(1) The department shall supervise the following offenders who are sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Offenders convicted of:

(i) Sexual misconduct with a minor second degree;

(ii) Custodial sexual misconduct second degree;

(iii) Communication with a minor for immoral purposes; and

(iv) Violation of RCW 9A.44.132(2) (failure to register); and

(b) Offenders who have:

(i) A current conviction for a repetitive domestic violence offense where domestic violence has been plead and proven after August 1, 2011; and

(ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e)(i) Has a current conviction for a domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence ~~(has been)~~ was plead and proven after August 1, 2011. This subsection (4)(e)(i) applies only to offenses committed prior to the effective date of this section;

(ii) Has a conviction for a domestic violence felony offense where domestic violence was plead and proven and that was committed after the effective date of this section. The state and its officers, agents, and employees shall not be held criminally or civilly liable for its supervision of an offender under this subsection (4)(e)(ii) unless the state and its officers, agents, and employees acted with gross negligence;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or 9.94A.670;

(g) Is subject to supervision pursuant to RCW 9.94A.745; or

(h) Was convicted and sentenced under RCW 46.61.520 (vehicular homicide), RCW 46.61.522 (vehicular assault), RCW

46.61.502(6) (felony DUI), or RCW 46.61.504(6) (felony physical control).

(5) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under this section or RCW 9.94A.5011.

(6) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section or RCW 9.94A.5011.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe; Morris and Takko.

Passed to Committee on Rules for second reading.

SSB 5275 April 3, 2015
Prime Sponsor, Committee on Ways & Means:
Concerning tax code improvements that do not
affect state revenue collections. Reported by
Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Fitzgibbon; Manweller; Pollet; Reykdal; Robinson; Ryu; Springer; Stokesbary; Vick; Wilcox and Wylie.

Passed to Committee on Rules for second reading.

SSB 5276 April 3, 2015
Prime Sponsor, Committee on Ways & Means:
Concerning refunds of property taxes paid as a
result of manifest errors in descriptions of
property. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Fitzgibbon; Manweller; Pollet; Reykdal; Robinson; Ryu; Springer; Stokesbary; Vick; Wilcox and Wylie.

Passed to Committee on Rules for second reading.

SSB 5322 April 3, 2015
Prime Sponsor, Committee on Agriculture, Water
& Rural Economic Development: Concerning
conservation districts' rates and charges.
Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Fitzgibbon; Manweller; Pollet; Reykdal; Robinson; Ryu; Springer; Stokesbary; Wilcox and Wylie.

MINORITY recommendation: Without recommendation.
Signed by Representatives Orcutt, Assistant Ranking Minority Member; Condotta and Vick.

Passed to Committee on Rules for second reading.

SB 5499 April 2, 2015
Prime Sponsor, Senator Roach: Allowing the
filing of a special allegation of a nefarious drone
enterprise. Reported by Committee on General
Government & Information Technology

MAJORITY recommendation: Do pass. Signed by Representatives Hudgins, Chair; Senn, Vice Chair; Caldier, Assistant Ranking Minority Member; McCabe; Morris and Takko.

MINORITY recommendation: Do not pass. Signed by Representative MacEwen, Ranking Minority Member.

Passed to Committee on Rules for second reading.

SB 5511 April 3, 2015
Prime Sponsor, Senator Braun: Reducing the
frequency of local sales and use tax changes.
Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Fitzgibbon; Manweller; Pollet; Reykdal; Robinson; Ryu; Springer; Stokesbary; Vick; Wilcox and Wylie.

Passed to Committee on Rules for second reading.

SB 5542 April 3, 2015
Prime Sponsor, Senator Hill: Providing
reasonable tools for the effective administration
of the public utility district privilege tax.
Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Fitzgibbon; Manweller; Pollet; Reykdal; Robinson; Ryu; Springer; Stokesbary; Vick; Wilcox and Wylie.

Passed to Committee on Rules for second reading.

SB 5654 April 3, 2015
Prime Sponsor, Senator Dansel: Concerning
partial payment of current and delinquent taxes to
the county treasurer. Reported by Committee on
Finance

MAJORITY recommendation: Do pass. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta; Fitzgibbon; Manweller; Pollet; Reykdal; Robinson; Ryu; Springer; Stokesbary; Vick; Wilcox and Wylie.

Passed to Committee on Rules for second reading.

April 2, 2015

ESB 5673 Prime Sponsor, Senator Padden: Concerning the distribution of synthetic cannabinoids and bath salts. Reported by Committee on General Government & Information Technology

MAJORITY recommendation: Do pass as amended by Committee on Commerce & Gaming. Signed by Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe; Morris and Takko.

Passed to Committee on Rules for second reading.

April 3, 2015

SB 5761 Prime Sponsor, Senator Pearson: Providing for property tax exemption for the value of new construction of industrial/manufacturing facilities in targeted urban areas. Reported by Committee on Finance

MAJORITY recommendation: Do pass as amended by Committee on Technology & Economic Development. Signed by Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Fitzgibbon; Manweller; Pollet; Reykdal; Robinson; Ryu; Springer; Vick; Wilcox and Wylie.

MINORITY recommendation: Without recommendation. Signed by Representatives Orcutt, Assistant Ranking Minority Member; Condotta and Stokesbary.

Passed to Committee on Rules for second reading.

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

The Speaker (Representative Orwall presiding) called upon Representative Fitzgibbon to preside.

FIRST SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

April 6, 2015

HB 1299 Prime Sponsor, Representative Clibborn: Making transportation appropriations for the 2015-2017 fiscal biennium. Reported by Committee on Transportation

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist; Gregerson; Hayes; Kochmar; McBride; Moeller; Morris; Ortiz-Self; Pike; Riccelli; Rodne; Sells; Takko; Tarleton; Wilson and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representative Shea.

MINORITY recommendation: Without recommendation. Signed by Representative Harmsworth.

Referred to Committee on .

April 6, 2015

ESB 5251 Prime Sponsor, Senator Honeyford: Transferring public water system financial assistance activities from the public works board and the department of commerce to the department of health. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass. Signed by Representatives Dunshee, Chair; Stanford, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Kilduff; Kochmar; Peterson; Riccelli and Walsh.

Passed to Committee on Rules for second reading.

April 6, 2015

SSB 5280 Prime Sponsor, Committee on Commerce & Labor: Concerning the sale of beer and cider by grocery store licensees. Reported by Committee on General Government & Information Technology

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 66.24.360 and 2012 c 2 s 104 are each amended to read as follows:

(1) There is a grocery store license to sell wine and/or beer, including without limitation strong beer at retail in original containers, not to be consumed upon the premises where sold.

(2) There is a wine retailer reseller endorsement of a grocery store license, to sell wine at retail in original containers to retailers licensed to sell wine for consumption on the premises, for resale at their licensed premises according to the terms of the license. However, no single sale may exceed twenty-four liters, unless the sale is made by a licensee that was a contract liquor store manager of a contract-operated liquor store at the location from which such sales are made. For the purposes of this title, a grocery store license is a retail license, and a sale by a grocery store licensee with a reseller endorsement is a retail sale only if not for resale.

(3) Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid.

(4) The annual fee for the grocery store license is one hundred fifty dollars for each store.

(5) The annual fee for the wine retailer reseller endorsement is one hundred sixty-six dollars for each store.

(6)(a) Upon approval by the board, a grocery store licensee with revenues derived from beer and/or wine sales exceeding fifty percent of total revenues or that maintains an alcohol inventory of not less than fifteen thousand dollars may also receive an endorsement to permit the sale of beer and cider, as defined in RCW 66.24.210(6), in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and filled at the tap by the licensee at the time of sale by an employee of the licensee holding a class 12 alcohol server permit.

(b) Pursuant to RCW 74.08.580(1)(f), a person may not use an electronic benefit transfer card for the purchase of any product authorized for sale under this section.

(7) The board must issue a restricted grocery store license authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board must consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it must issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

~~((7))~~ (8) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food products for human consumption, not including pop, beer, strong beer, or wine.

~~((8))~~ (9) A grocery store licensee with a wine retailer reseller endorsement may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed premises, to other registered facilities, or to lawful purchasers outside the state. Facilities may be registered and utilized by associations, cooperatives, or comparable groups of grocery store licensees.

~~((9))~~ (10) Upon approval by the board, the grocery store licensee may also receive an endorsement to permit the international export of beer, strong beer, and wine.

(a) Any beer, strong beer, or wine sold under this endorsement must have been purchased from a licensed beer or wine distributor licensed to do business within the state of Washington.

(b) Any beer, strong beer, and wine sold under this endorsement must be intended for consumption outside the state of Washington and the United States and appropriate records must be maintained by the licensee.

(c) Any beer, strong beer, or wine sold under this endorsement must be sold at a price no less than the acquisition price paid by the holder of the license.

(d) The annual cost of this endorsement is five hundred dollars and is in addition to the license fees paid by the licensee for a grocery store license.

~~((10))~~ (11) A grocery store licensee holding a snack bar license under RCW 66.24.350 may receive an endorsement to allow the sale of confections containing more than one percent but not more than ten percent alcohol by weight to persons twenty-one years of age or older.

(12) The board may adopt rules to implement this section.

(13) Nothing in this section limits the authority of the board to regulate the sale of beer or cider or container sizes under rules adopted pursuant to RCW 66.08.030."

Correct the title.

Signed by Representatives Hudgins, Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe and Morris.

MINORITY recommendation: Do not pass. Signed by Representative Takko.

MINORITY recommendation: Without recommendation. Signed by Representative Senn, Vice Chair.

Passed to Committee on Rules for second reading.

April 2, 2015

ESSB 5347

Prime Sponsor, Committee on Ways & Means: Creating demonstration projects for preserving agricultural land and public infrastructure in flood plains. Reported by Committee on General Government & Information Technology

MAJORITY recommendation: Do pass as amended by Committee on General Government & Information Technology and without amendment by Committee on Agriculture & Natural Resources.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature intends for the state conservation commission and the departments of ecology, agriculture, fish and wildlife, and natural resources to work together cooperatively, efficiently, and productively to facilitate the intent of this act.

(2) The legislature further intends that the collaborative process created by the stakeholder group required in section 3 of this act, including the participation of local stakeholders, will be used as a model for river management throughout the state.

(3) The legislature finds that floodplain management must address multiple benefits including:

(a) Reducing flood hazard to public infrastructure and other land uses caused by sediment accumulation or for other causes;

(b) Improving fish and wildlife habitat;

(c) Sustaining agriculture; and

(d) Maintaining and enhancing public access.

NEW SECTION. Sec. 2. (1) The state conservation commission and the departments of agriculture, natural resources, fish and wildlife, and ecology must jointly identify and assess three demonstration projects. One demonstration project must be located primarily in Whatcom county, one must be located primarily in Snohomish county, and one must be located primarily in Grays Harbor county.

(2) The demonstration projects must be designed to test the effectiveness and costs of river management by using various management strategies and techniques, as applied, to accomplish the following goals:

(a) Protection of agricultural lands;

(b) Restoration or enhancement of fish runs; and

(c) Protection of public infrastructure and recreational access.

(3) In developing the demonstration projects, the state conservation commission and the departments must, in consultation with the stakeholder group required by section 3 of this act:

(a) Examine studies and reports related to sediment management conducted in the Fraser river, British Columbia, Canada, to assess whether and how the Fraser river experience applies to the goals of this section, and include any potentially applicable practices in the development of the demonstration projects; and

(b) Set benchmarks and a timetable for progress toward achievement of the goals of this act.

(4) The development and assessment of the demonstration projects must also consider the disposition of any state-owned gravel resources removed as a result of the demonstration projects. The presumed disposition must be consistent with chapter 79.140 RCW. However, the process for developing and assessing the pilot project may consider:

(a) Using the gravel resources, at the discretion of the departments, in projects related to fish enhancement programs in

the local area of the project or by property owners adjacent to the project;

(b) Making gravel resources available to local tribes for their use; or

(c) Selling the gravel resources and using the proceeds to fund the demonstration projects.

(5) At a minimum, the demonstration projects must be designed to collectively examine the following management strategies and techniques:

(a) Providing deeper, cooler holes for fish life;

(b) Removing excess sediment and gravel that causes diversion of water and erosion of river banks and farmland;

(c) Providing off-channels for habitat as refuge during high flows;

(d) Ensuring that any management activities leave sufficient gravel and sediment for fish spawning and rearing;

(e) Providing stable river banks that will allow for long-term growth of riparian enhancement efforts, such as planting shade trees and hedgerows;

(f) Protecting existing mature treed riparian zones that cool the waters;

(g) Restoring previously existing bank contours that protect the land from erosion caused by more intense and more frequent flooding;

(h) Developing management practices that reduce the amount of gravel, sediment, and woody debris deposited into farm fields; and

(i) Setting back levees and other measures in segments of rivers upstream from the delta to accommodate high flow.

NEW SECTION. Sec. 3. (1) The state conservation commission must convene a stakeholder group to assist in the development and assessment of the demonstration projects required under section 2 of this act.

(2) The stakeholder group must consist of representatives from:

(a) The departments of agriculture, natural resources, fish and wildlife, and ecology;

(b) Local and statewide agricultural organizations;

(c) Land conservation organizations; and

(d) Local governments with interest and experience in floodplain management techniques.

(3) In addition to the participants on the stakeholder group, the state conservation commission and the departments responsible for implementing section 2 of this act must also consult with, and obtain the views of, any federally recognized tribe that may be affected by each demonstration project.

(4) The stakeholder group required by this section must be staffed by the state conservation commission with assistance, as requested, from the departments responsible for implementing section 2 of this act.

(5) Each member of the stakeholder group not employed by the state of Washington shall serve without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(6) Any costs for the implementation of this section, including the participation costs for nonagency participants, must be shared among the agencies responsible for implementing this act. The state conservation commission shall coordinate and manage these costs through interagency agreements with all of the affected agencies.

NEW SECTION. Sec. 4. (1) The state conservation commission and the departments responsible for implementing section 2 of this act must submit a report to the legislature, consistent with RCW 43.01.036, by October 31, 2016.

(2) The report must include:

(a) An examination and findings of the applicability of the Fraser river experience to the goals of this act;

(b) Information regarding the benchmarks and timetables required under section 2 of this act;

(c) Any decisions made in developing and assessing the projects required in this section;

(d) Any recommendations for extending or changing the process required in section 2 of this act or moving into the demonstration project implementation phase; and

(e) Any recommendations for funding the implementation of demonstration projects from federal grants, federal loans, state grants and loans, and private donations, or if other funding sources are not available or complete, the submission of the three demonstration projects for consideration in the biennial capital budget request to the governor and the legislature.

NEW SECTION. Sec. 5. If funding is identified for the implementation of the demonstration projects developed under section 2 of this act from sources other than specific state appropriations, and the implementation of the demonstration projects can occur within the existing authority of all affected parties, the legislature intends for the state conservation commission and the departments responsible for implementing section 2 of this act to coordinate with the stakeholder group required in section 3 of this act to cooperatively, efficiently, and productively initiate the implementation of the demonstration projects, including the joint and contemporaneous expediting of any necessary permits related to the demonstration projects.

NEW SECTION. Sec. 6. All requirements in this act are subject to the availability of amounts appropriated for the specific purposes described.

NEW SECTION. Sec. 7. This act expires July 1, 2017.

NEW SECTION. Sec. 8. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe; Morris and Takko.

Passed to Committee on Rules for second reading.

April 6, 2015

SSB 5705

Prime Sponsor, Committee on Natural Resources & Parks: Establishing a mineral prospecting and mining advisory committee. Reported by Committee on General Government & Information Technology

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 77.55 RCW to read as follows:

(1) The commission must establish and maintain an advisory committee to represent the interests of small scale mineral prospectors and miners to the commission and the department on matters including, but not limited to, issues relating to:

(a) Individual hydraulic project approval permit processing under this chapter;

(b) Relevant rules and proposed rule changes under this chapter; and

(c) The gold and fish pamphlet established under RCW 77.55.091.

(2) The advisory committee must serve as a collaborative forum for regular communication of both ongoing and emergent issues relating to mineral prospecting and mining.

(3) The advisory committee must consist of between five and nine members, as determined by the commission. In determining the size and membership of the advisory committee, the commission must consult with and consider nominations from appropriate small scale mineral prospecting and mining groups.

(4) Each member of the advisory committee shall serve without compensation and is not entitled to be reimbursed for travel expenses.

(5) The advisory committee may not meet more than four times in each calendar year.

(6) For the purposes of this act, small scale mineral prospectors and miners means individuals who engage in small scale prospecting and mining as defined in RCW 77.55.011.

(7) This section expires July 1, 2020. Prior to July 1, 2020, the department must provide a report to the legislature, consistent with RCW 43.01.036, detailing the effectiveness of the advisory committee including, but not limited to, the participation levels, general interest, quality of advice, and recommendations as to the advisory committee's continuance or modification.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe; Morris and Takko.

Passed to Committee on Rules for second reading.

SB 5723

Prime Sponsor, Senator Honeyford: Concerning the amendment, recodification, decodification, or repeal of statutes relating to state capital construction funds and accounts and bond authorizations that are inactive, obsolete, or no longer necessary for continued publication in the Revised Code of Washington. Reported by Committee on Capital Budget

April 6, 2015

MAJORITY recommendation: Do pass as amended.

On page 7, line 8, after "(1)" insert "RCW 28B.50.401 (Transfer of moneys in community college bond retirement fund to state general fund—Purpose);

(2) RCW 28B.50.402 (Transfer of moneys in community and technical college bond retirement fund to state general fund—Exception);

(3)"

Renumber the remaining subsections consecutively, correct any internal references accordingly, and correct the title.

On page 38, beginning on line 3, strike all of section 27

Renumber the remaining sections consecutively, correct any internal references accordingly, and correct the title.

Signed by Representatives Dunshee, Chair; Stanford, Vice Chair; DeBolt, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Kilduff; Kochmar; Peterson; Riccelli and Walsh.

Passed to Committee on Rules for second reading.

E2SSB 5737

Prime Sponsor, Committee on Ways & Means: Concerning government performance and accountability. Reported by Committee on General Government & Information Technology

April 6, 2015

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that Washington state and its public servants are committed to the continuous improvement of services, outcomes, and performance of state government to realize a safe, beautiful and healthy place to live and work. Therefore, the legislature intends to achieve these aims through an innovative, data-driven, performance management office that will drive the operations of state government through lean thinking.

NEW SECTION. Sec. 2. (1) There is created in the office of the governor the office of performance management. The office's goal is to develop and implement a documented world-class lean performance management system.

(2) The executive head of the office of performance management is a director appointed by the governor, who serves at the pleasure of the governor.

(3) The director may employ personnel necessary for the administration of the office of performance management.

NEW SECTION. Sec. 3. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means each state agency, department, office, board, commission, or other unit of state government, but does not include an office or agency headed by a statewide elected official, institutions of higher education as defined in RCW 28B.10.016, agricultural commodity commissions, or agencies of the legislative or judicial branches of state government.

(2) "Agency ethics plan" means a plan to promote ethical practices and to eliminate fraudulent practices in agency operations.

(3) "Agency strategic plan" means a plan described in section 6 of this act.

(4) "Lean performance management system" means a system that:

(a) Promotes activities to increase efficiency and eliminate waste and inefficiency in agency operations, including delivery of services and goods to the public, based upon continuous assessment and improvement; and

(b) Is equivalent in scope and detail to similar systems used in large private sector organizations.

(5) "Measurable improvements" includes but is not limited to cost savings, cost avoidance, improved safety, increased quality, accuracy and efficiency, improved customer satisfaction, and enhanced employee engagement and satisfaction.

(6) "State performance management implementation plan" means a detailed plan to implement a statewide lean performance management system.

NEW SECTION. Sec. 4. The office of performance management must:

(1) Beginning July 1, 2015, conduct an inventory of agency strategic plans and ethics plans and an evaluation of an agency's lean maturity. By May 1, 2016, the office must submit, in compliance with RCW 43.01.036, a report to the legislature and the governor with the results of the inventory and evaluation.

(2) Adopt, by January 1, 2016, and implement a state strategic plan and a state performance management implementation plan.

(3) Collaborate with the department of enterprise services and the office of financial management's state human resources division to develop a workforce learning and training program and a workforce performance management system necessary for employees, middle managers, supervisors, and senior agency leaders to implement a fully developed lean performance management system; and

(4) Adopt rules necessary to administer this chapter.

NEW SECTION. Sec. 5. Each agency must:

(1) Adopt an agency strategic plan pursuant to section 6 of this act, an agency ethics plan, and a workforce learning and training development plan;

(2) Provide annual reports to the office of performance management regarding implementation and results of its lean improvement projects that identify measurable improvements.

NEW SECTION. Sec. 6. Each agency must adopt an agency strategic plan that:

(1) Defines its mission and sets measurable goals for achieving desirable results for those receiving its services and taxpayers paying for its services. This section does not require an agency to develop a new mission or goals in place of identifiable missions or goals that meet the intent of this section. The mission and goals of each agency must conform to statutory direction and limitations;

(2) Develops clear strategies and timelines to achieve its goals;

(3) To assess activity performance, sets quality and productivity objectives for each major activity in its budget. These objectives must:

(a) Be consistent with the mission and goals defined under subsection (1) of this section;

(b) Be expressed to the extent practicable in outcome-based, objective, and measurable form; and

(c) Specifically address the statutory purpose or intent of the program or activity and focus on data that measures whether the agency is achieving or making progress toward the purpose of the activity and toward statewide priorities.

Sec. 7. RCW 43.09.470 and 2006 c 1 s 2 are each amended to read as follows:

In addition to audits authorized under RCW 43.88.160, the state auditor shall conduct independent, comprehensive performance audits of state government and each of its agencies, accounts, and programs; local governments and each of their agencies, accounts, and programs; state and local education governmental entities and each of their agencies, accounts, and programs; state and local transportation governmental entities and each of their agencies, accounts, and programs; and other governmental entities, agencies, accounts, and programs. The term "government" means an agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education. This includes individual agencies and programs, as well as those programs and activities that cross agency lines.

"Government" includes all elective and nonelective offices in the executive branch and includes the judicial and legislative branches. The state auditor shall review and analyze the economy, efficiency, and effectiveness of the policies, management, fiscal affairs, and operations of state and local governments, agencies, programs, and accounts. These performance audits shall be conducted in accordance with the United States general accounting office government auditing standards. The state auditor must consult with the office of performance management and the joint legislative audit and review committee to develop audit criteria and standards to audit the state performance management implementation plan.

The scope for each performance audit shall not be limited and shall include nine specific elements: (1) Identification of cost savings; (2) identification of services that can be reduced or eliminated; (3) identification of programs or services that can be transferred to the private sector; (4) analysis of gaps or overlaps in programs or

services and recommendations to correct gaps or overlaps; (5) feasibility of pooling information technology systems within the department; (6) analysis of the roles and functions of the department, and recommendations to change or eliminate departmental roles or functions; (7) recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions; (8) analysis of departmental performance data, performance measures, and self-assessment systems; and (9) identification of best practices. The state auditor may contract out any performance audits. For counties and cities, the audit may be conducted as part of audits otherwise required by state law. Each audit report shall be submitted to the corresponding legislative body or legislative bodies and made available to the public on or before thirty days after the completion of each audit or each follow-up audit. On or before thirty days after the performance audit is made public, the corresponding legislative body or legislative bodies shall hold at least one public hearing to consider the findings of the audit and shall receive comments from the public. The state auditor is authorized to issue subpoenas to governmental entities for required documents, memos, and budgets to conduct the performance audits. The state auditor may, at any time, conduct a performance audit to determine not only the efficiency, but also the effectiveness, of any government agency, account, or program. No legislative body, officeholder, or employee may impede or restrict the authority or the actions of the state auditor to conduct independent, comprehensive performance audits. To the greatest extent possible, the state auditor shall instruct and advise the appropriate governmental body on a step-by-step remedy to whatever ineffectiveness and inefficiency is discovered in the audited entity. For performance audits of state government and its agencies, programs, and accounts, the legislature must consider the state auditor reports in connection with the legislative appropriations process. An annual report will be submitted by the joint legislative audit and review committee by July 1st of each year detailing the status of the legislative implementation of the state auditor's recommendations.

Justification must be provided for recommendations not implemented. Details of other corrective action must be provided as well. For performance audits of local governments and their agencies, programs, and accounts, the corresponding legislative body must consider the state auditor reports in connection with its spending practices. An annual report will be submitted by the legislative body by July 1st of each year detailing the status of the legislative implementation of the state auditor's recommendations. Justification must be provided for recommendations not implemented. Details of other corrective action must be provided as well. The people encourage the state auditor to aggressively pursue the largest, costliest governmental entities first but to pursue all governmental entities in due course. Follow-up performance audits on any state and local government, agency, account, and program may be conducted when determined necessary by the state auditor. Revenues from the performance audits of government account, created in RCW 43.09.475, shall be used for the cost of the audits.

NEW SECTION. Sec. 8. This act may be known and cited as the performance management act.

NEW SECTION. Sec. 9. Sections 1 through 6 and 8 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void."

Signed by Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe; Morris and Takko.

Passed to Committee on Rules for second reading.

April 6, 2015
ESSB 5843 Prime Sponsor, Committee on Ways & Means:
 Concerning outdoor recreation. Reported by
 Committee on General Government &
 Information Technology

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 79A.05.351 and 2007 c 176 s 2 are each amended to read as follows:

(1) The outdoor education and recreation grant program is hereby created, subject to the availability of funds in the outdoor education and recreation account. The commission shall establish and implement the program by rule to provide opportunities for public agencies, private nonprofit organizations, formal school programs, nonformal after-school programs, and community-based programs to receive grants from the account. Programs that provide outdoor education opportunities to schools shall be fully aligned with the state's essential academic learning requirements.

(2) The program shall be phased in beginning with the schools and students with the greatest needs in suburban, rural, and urban areas of the state. The program shall focus on students who qualify for free and reduced-price lunch, who are most likely to fail academically, or who have the greatest potential to drop out of school.

(3) The director shall set priorities and develop criteria for the awarding of grants to outdoor environmental, ecological, agricultural, or other natural resource-based education and recreation programs considering at least the following:

(a) Programs that contribute to the reduction of academic failure and dropout rates;

(b) Programs that make use of research-based, effective environmental, ecological, agricultural, or other natural resource-based education curriculum;

(c) Programs that contribute to healthy life styles through outdoor recreation and sound nutrition;

(d) Various Washington state parks as venues and use of the commission's personnel as a resource;

(e) Programs that maximize the number of participants that can be served;

(f) Programs that will commit matching and in-kind resources;

(g) Programs that create partnerships with public and private entities;

(h) Programs that provide students with opportunities to directly experience and understand nature and the natural world;
 ((and))

(i) Programs that include ongoing program evaluation, assessment, and reporting of their effectiveness; and

(j) Programs that utilize veterans for at least fifty percent of program implementation or administration.

(4) The director shall create an advisory committee to assist and advise the commission in the development and administration of the outdoor education and recreation program. The director should solicit representation on the committee from the office of the superintendent of public instruction, the department of fish and wildlife, the business community, outdoor organizations with an interest in education, and any others the commission deems sufficient to ensure a cross section of stakeholders. When the director creates such an advisory committee, its members shall be reimbursed from the outdoor education and recreation program

account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The outdoor education and recreation program account is created in the custody of the state treasurer. Funds deposited in the outdoor education and recreation program account shall be transferred only to the commission to be used solely for the commission's outdoor education and recreation program purposes identified in this section including the administration of the program. The director may accept gifts, grants, donations, or moneys from any source for deposit in the outdoor education and recreation program account. Any public agency in this state may develop and implement outdoor education and recreation programs. The director may make grants to public agencies and contract with any public or private agency or person to develop and implement outdoor education and recreation programs. The outdoor education and recreation program account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 2. A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the director must maintain a position in the department to serve as a state lead on economic development issues relating to the outdoor recreation sector of the state's economy. The position must focus on promoting, increasing participation in, and increasing opportunities for outdoor recreation in Washington, with a particular focus on achieving economic development and job growth through outdoor recreation.

(2) The success of the department's outdoor recreation lead must be based on measurable results relating to economic development strategies that more deliberately grow employment and outdoor recreation businesses, including:

(a) Strategies for increasing the number of new jobs directly or indirectly related to outdoor recreation, with a short-term goal of increasing employment in the sector by ten percent above the one hundred ninety-nine thousand jobs estimated to be connected to outdoor recreation as of 2015; and

(b) Strategies for increasing the twenty-one billion dollars of consumer spending in Washington, and the four and one-half billion dollars of spending from out-of-state visitors, estimated to be connected to outdoor recreation as of 2015."

Correct the title.

Signed by Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe; Morris and Takko.

Passed to Committee on Rules for second reading.

April 2, 2015
SSB 5965 Prime Sponsor, Committee on Agriculture, Water & Rural Economic Development: Evaluating mitigation options for impacts to base flows and minimum instream flows. Reported by Committee on General Government & Information Technology

MAJORITY recommendation: Do pass as amended by Committee on General Government & Information Technology and without amendment by Committee on Agriculture & Natural Resources.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that rural economic development requires access to uninterrupted water

supplies. However, water supplies are not unlimited due to senior water rights and regulations that establish base flows and minimum instream flows. When senior water rights and flow regulations limit additional out-of-stream uses, mitigation options may provide a viable option if they are readily available and well-understood. The legislature recognizes the importance of providing clarity regarding the range of available mitigation options to help provide economic opportunities in rural areas.

NEW SECTION. Sec. 2. (1) The department of ecology must produce a report evaluating options for mitigating the effects of permit-exempt groundwater withdrawals on existing water rights, including base flows and minimum instream flows. For the purposes of the report required in this section, the mitigation techniques that the department of ecology must evaluate include, but are not limited to:

(a) Demand management strategies, such as household conservation and associated water use metering;

(b) Supply side strategies, such as use of rainwater collection, greywater, cisterns, bulk or hauled water, and the extension of water supply pipelines.

(2) When preparing the report required under this section, the department of ecology must:

(a) Consult with the office of the attorney general;

(b) Coordinate with the existing water resources advisory committee formed by the department of ecology to provide feedback on the development of the report and any final recommendations; and

(c) Make available a draft of the report on its web site for at least thirty days for public review prior to the completion of the report to allow sufficient opportunity to consider input that may be received.

(3) The report required in this section must include:

(a) An examination of scientific methods for establishing instream flows, including a discussion of methods regularly used by the department of ecology and the department of fish and wildlife for each element of the instream flows required to be protected under RCW 90.54.020(3);

(b)(i) An analysis of the impacts, including cumulative impacts, of permit-exempt groundwater withdrawals on instream flows in several representative basins, including the impacts from existing and future withdrawals based on full build out scenarios.

(ii) The analysis required under this subsection should include a specific focus on impacts to tributaries that serve as habitat for salmonid spawning and rearing and should include empirical data concerning household water use for each category of use identified in RCW 90.44.050;

(c) A description of mitigation techniques, including out-of-kind mitigation, the department of ecology has employed or approved pursuant to RCW 90.03.255 in the previous ten years, or which may be available, to address the impacts of permit-exempt groundwater withdrawals on instream flows, including the location, cost, and legal authority for each type of mitigation technique;

(d) A survey of in-kind streamflow enhancement strategies, other than regulation of permit-exempt groundwater withdrawals, that would improve streamflow levels in a cost-effective manner;

(e)(i) An assessment of the effectiveness of each type of mitigation technique identified in (c) of this subsection, that may be available to the department of ecology to mitigate the impacts of permit-exempt groundwater withdrawals on instream flows.

(ii) The analyses required under this section must include:

(A) A scientific analysis of how the technique fully mitigates for harm; and

(B) An evaluation of how the mitigation techniques are funded, monitored, enforced, evaluated to determine effectiveness, and modified if mitigation fails;

(f) An evaluation of all mitigation options that may be available for permit-exempt groundwater withdrawals in the areas covered under the instream resources protection program for the lower and upper Skagit river basin, water resource inventory areas 3 and 4, and a discussion of the advantages and disadvantages of employing each type of mitigation technique in those areas;

(g) An evaluation of how mitigation sequencing approaches may be utilized to encourage avoidance of impacts; and

(h) Any recommendations regarding mitigation options that will be available to landowners who are required to mitigate the impacts of permit-exempt groundwater withdrawals on instream flows.

(4) By December 1, 2015, the department of ecology must submit the final report to the legislature consistent with RCW 43.01.036.

NEW SECTION. Sec. 3. This act expires June 30, 2016.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Signed by Representatives Hudgins, Chair; Senn, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; McCabe; Morris and Takko.

Passed to Committee on Rules for second reading.

SECOND SUPPLEMENTAL REPORTS OF STANDING COMMITTEES

April 7, 2015

HB 1645

Prime Sponsor, Representative Pollet: Concerning youth substance use prevention associated with tobacco and drug delivery e-cigarettes and vapor products. Reported by Committee on Appropriations

MAJORITY recommendation: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Commerce & Gaming. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle; Cody; Dunshee; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; Pettigrew; Sawyer; Senn; Springer; Sullivan; Tharinger and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Condotta; Dent; Fagan; Haler; Hunt, G.; MacEwen; Magendanz; Stokesbary; Taylor and Van Werven.

Passed to Committee on Rules for second reading.

April 7, 2015

HB 2195

Prime Sponsor, Representative Lytton: Modifying certain auditor's fees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler,

Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Buys; Condotta; Hunt, G.; Taylor and Van Werven.

Passed to Committee on Rules for second reading.

April 7, 2015

HB 2221 Prime Sponsor, Representative Hunter: Concerning responses to high priority violations at long-term care facilities. Reported by Committee on Appropriations

MAJORITY recommendation: The substitute bill be substituted therefor and the substitute bill do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle; Cody; Dunshee; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; Pettigrew; Sawyer; Senn; Springer; Sullivan; Tharinger and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Condotta; Dent; Fagan; Haler; Hunt, G.; MacEwen; Magendanz; Stokesbary; Taylor and Van Werven.

Passed to Committee on Rules for second reading.

April 7, 2015

SB 5020 Prime Sponsor, Senator Bailey: Concerning state agencies continuity of operations planning requirements. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Buys; Condotta; Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5028 Prime Sponsor, Committee on Health Care: Raising licensure limits to allow assisted living facilities to serve a higher acuity resident population. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking

Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger; Van Werven and Walkinshaw.

Passed to Committee on Rules for second reading.

April 7, 2015

E2SSB 5057 Prime Sponsor, Committee on Ways & Means: Concerning the safe transport of hazardous materials. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.56.005 and 2010 1st sp.s. c 7 s 72 are each amended to read as follows:

(1) The legislature declares that waterborne transportation as a source of supply for oil and hazardous substances poses special concern for the state of Washington. Each year billions of gallons of crude oil and refined petroleum products are transported as cargo and fuel by vessels on the navigable waters of the state. The movement of crude oil through rail corridors and over Washington waters creates safety and environmental risks. The sources and transport of crude oil bring risks to our communities along rail lines and to the Columbia river, Grays Harbor, and Puget Sound waters. These shipments are expected to increase in the coming years. Vessels and trains transporting oil into Washington travel on some of the most unique and special marine environments in the United States. These marine environments are a source of natural beauty, recreation, and economic livelihood for many residents of this state. As a result, the state has an obligation to ensure the citizens of the state that the waters of the state will be protected from oil spills.

(2) The legislature finds that prevention is the best method to protect the unique and special marine environments in this state. The technology for containing and cleaning up a spill of oil or hazardous substances is at best only partially effective. Preventing spills is more protective of the environment and more cost-effective when all the response and damage costs associated with responding to a spill are considered. Therefore, the legislature finds that the primary objective of the state is to achieve a zero spills strategy to prevent any oil or hazardous substances from entering waters of the state.

(3) The legislature also finds that:

(a) Recent accidents in Washington, Alaska, southern California, Texas, Pennsylvania, and other parts of the nation have shown that the transportation, transfer, and storage of oil have caused significant damage to the marine environment;

(b) Even with the best efforts, it is nearly impossible to remove all oil that is spilled into the water, and average removal rates are only fourteen percent;

(c) Washington's navigable waters are treasured environmental and economic resources that the state cannot afford to place at undue risk from an oil spill;

(d) The state has a fundamental responsibility, as the trustee of the state's natural resources and the protector of public health and the environment to prevent the spill of oil; and

(e) In section 5002 of the federal oil pollution act of 1990, the United States congress found that many people believed that

complacency on the part of industry and government was one of the contributing factors to the Exxon Valdez spill and, further, that one method to combat this complacency is to involve local citizens in the monitoring and oversight of oil spill plans. Congress also found that a mechanism should be established that fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals. Moreover, congress concluded that, in addition to Alaska, a program of citizen monitoring and oversight should be established in other major crude oil terminals in the United States because recent oil spills indicate that the safe transportation of oil is a national problem.

(4) In order to establish a comprehensive prevention and response program to protect Washington's waters and natural resources from spills of oil, it is the purpose of this chapter:

(a) To establish state agency expertise in marine safety and to centralize state activities in spill prevention and response activities;

(b) To prevent spills of oil and to promote programs that reduce the risk of both catastrophic and small chronic spills;

(c) To ensure that responsible parties are liable, and have the resources and ability, to respond to spills and provide compensation for all costs and damages;

(d) To provide for state spill response and wildlife rescue planning and implementation;

(e) To support and complement the federal oil pollution act of 1990 and other federal law, especially those provisions relating to the national contingency plan for cleanup of oil spills and discharges, including provisions relating to the responsibilities of state agencies designated as natural resource trustees. The legislature intends this chapter to be interpreted and implemented in a manner consistent with federal law;

(f) To provide broad powers of regulation to the department of ecology relating to spill prevention and response;

(g) To provide for independent review on an ongoing basis the adequacy of oil spill prevention, preparedness, and response activities in this state; ~~(and)~~

(h) To provide an adequate funding source for state response and prevention programs; and

(i) To maintain the best achievable protection that can be obtained through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable.

Sec. 2. RCW 88.46.010 and 2011 c 122 s 1 are each reenacted and amended to read as follows:

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

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering:

(a) The additional protection provided by the measures;

(b) The technological achievability of the measures; and

(c) The cost of the measures.

(2)(a) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration:

(i) Processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development; and

(ii) Processes that are currently in use.

(b) In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(5) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(6) "Department" means the department of ecology.

(7) "Director" means the director of the department of ecology.

(8) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(9)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, advanced notice of oil transfers in section 8 of this act, and financial responsibility in RCW 88.40.025, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) A facility does not include any: (i) ~~(Railroad car,)~~ Motor vehicle ~~(or other rolling stock)~~ while transporting oil over the highways ~~(or rail lines)~~ of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(10) "Marine facility" means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(11) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(12) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land. "Offshore facility" does not include a marine facility.

(13) "Oil" or "oils" means oil of any kind that is liquid at ~~(atmospheric temperature)~~ twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section ~~((401(14)))~~ 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(14) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person

owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(18) "Race Rocks light" means the nautical landmark located southwest of the city of Victoria, British Columbia.

(19) "Regional vessels of opportunity response group" means a group of nondedicated vessels participating in a vessels of opportunity response system to respond when needed and available to spills in a defined geographic area.

(20) "Severe weather conditions" means observed nautical conditions with sustained winds measured at forty knots and wave heights measured between twelve and eighteen feet.

(21) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(22) "Spill" means an unauthorized discharge of oil into the waters of the state.

(23) "Strait of Juan de Fuca" means waters off the northern coast of the Olympic Peninsula seaward of a line drawn from New Dungeness light in Clallam county to Discovery Island light on Vancouver Island, British Columbia, Canada.

(24) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(25) "Umbrella plan holder" means a nonprofit corporation established consistent with this chapter for the purposes of providing oil spill response and contingency plan coverage.

(26) "Vessel emergency" means a substantial threat of pollution originating from a covered vessel, including loss or serious degradation of propulsion, steering, means of navigation, primary electrical generating capability, and seakeeping capability.

(27) "Vessels of opportunity response system" means nondedicated boats and operators, including fishing and other vessels, that are under contract with and equipped by contingency plan holders to assist with oil spill response activities, including on-water oil recovery in the near shore environment and the placement of oil spill containment booms to protect sensitive habitats.

(28) "Volunteer coordination system" means an oil spill response system that, before a spill occurs, prepares for the coordination of volunteers to assist with appropriate oil spill response activities, which may include shoreline protection and cleanup, wildlife recovery, field observation, light construction, facility maintenance, donations management, clerical support, and other aspects of a spill response.

(29) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(30) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or

offshore facility, the largest foreseeable spill in adverse weather conditions.

Sec. 3. RCW 90.56.010 and 2007 c 347 s 6 are each amended to read as follows:

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

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those staffing levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The director's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering (a) the additional protection provided by the measures; (b) the technological achievability of the measures; and (c) the cost of the measures.

(2) "Best achievable technology" means the technology that provides the greatest degree of protection taking into consideration (a) processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development, and (b) processes that are currently in use. In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Board" means the pollution control hearings board.

(4) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, three hundred or more gross tons, including but not limited to, commercial fish processing vessels and freighters.

(5) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(6) "Committee" means the preassessment screening committee established under RCW 90.48.368.

(7) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(8) "Department" means the department of ecology.

(9) "Director" means the director of the department of ecology.

(10) "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(11)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from a tank vessel or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, advanced notice of oil transfers in section 8 of this act, and financial responsibility in RCW 88.40.025, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) A facility does not include any: (i) ~~(Railroad car,)~~ Motor vehicle ~~(, or other rolling stock)~~ while transporting oil over the highways ~~(or rail lines)~~ of this state; (ii) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; (iii) motor vehicle motor fuel outlet; (iv) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(12) "Fund" means the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

(13) "Having control over oil" shall include but not be limited to any person using, storing, or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

(14) "Marine facility" means any facility used for tank vessel wharfe or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.

(15) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(16) "Necessary expenses" means the expenses incurred by the department and assisting state agencies for (a) investigating the source of the discharge; (b) investigating the extent of the environmental damage caused by the discharge; (c) conducting actions necessary to clean up the discharge; (d) conducting predamage and damage assessment studies; and (e) enforcing the provisions of this chapter and collecting for damages caused by a discharge.

(17) "Oil" or "oils" means oil of any kind that is liquid at ~~((atmospheric temperature))~~ twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section ~~((401(14)))~~ 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(18) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(19) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(20)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(21) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(22) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.

(23) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(24) "Spill" means an unauthorized discharge of oil or hazardous substances into the waters of the state.

(25) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(26) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries,

tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(27) "Worst case spill" means: (a) In the case of a vessel, a spill of the entire cargo and fuel of the vessel complicated by adverse weather conditions; and (b) in the case of an onshore or offshore facility, the largest foreseeable spill in adverse weather conditions.

(28) "Crude oil" means any naturally occurring hydrocarbons coming from the earth that are liquid at twenty-five degrees Celsius and one atmosphere of pressure including, but not limited to, crude oil, bitumen and diluted bitumen, synthetic crude oil, and natural gas well condensate.

Sec. 4. RCW 90.56.200 and 2000 c 69 s 19 are each amended to read as follows:

(1) The owner or operator for each onshore and offshore facility, except as determined in subsection (3) of this section, shall prepare and submit to the department an oil spill prevention plan in conformance with the requirements of this chapter. The plans shall be submitted to the department in the time and manner directed by the department. The spill prevention plan may be consolidated with a spill contingency plan submitted pursuant to RCW 90.56.210. The department may accept plans prepared to comply with other state or federal law as spill prevention plans to the extent those plans comply with the requirements of this chapter. The department, by rule, shall establish standards for spill prevention plans.

(2) The spill prevention plan for an onshore or offshore facility shall:

(a) Establish compliance with the federal oil pollution act of 1990, if applicable, and financial responsibility requirements under federal and state law;

(b) Certify that supervisory and other key personnel in charge of transfer, storage, and handling of oil have received certification pursuant to RCW 90.56.220;

(c) Certify that the facility has an operations manual required by RCW 90.56.230;

(d) Certify the implementation of alcohol and drug use awareness programs;

(e) Describe the facility's maintenance and inspection program and contain a current maintenance and inspection record of the storage and transfer facilities and related equipment;

(f) Describe the facility's alcohol and drug treatment programs;

(g) Describe spill prevention technology that has been installed, including overflow alarms, automatic overflow cut-off switches, secondary containment facilities, and storm water retention, treatment, and discharge systems;

(h) Describe any discharges of oil to the land or the water of more than twenty-five barrels in the prior five years and the measures taken to prevent a reoccurrence;

(i) Describe the procedures followed by the facility to contain and recover any oil that spills during the transfer of oil to or from the facility;

(j) Provide for the incorporation into the facility during the period covered by the plan of those measures that will provide the best achievable protection for the public health and the environment; and

(k) Include any other information reasonably necessary to carry out the purposes of this chapter required by rules adopted by the department.

(3) Plan requirements in subsection (2) of this section are not applicable to railroad facility operators while transporting oil over rail lines of this state.

(4) The department shall only approve a prevention plan if it provides the best achievable protection from damages caused by

the discharge of oil into the waters of the state and if it determines that the plan meets the requirements of this section and rules adopted by the department.

~~((4))~~ (5) Upon approval of a prevention plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the facilities covered by the plan, and other information the department determines should be included.

~~((5))~~ (6) The approval of a prevention plan shall be valid for five years. An owner or operator of a facility shall notify the department in writing immediately of any significant change of which it is aware affecting its prevention plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a prevention plan as a result of these changes.

~~((6))~~ (7) The department by rule shall require prevention plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

~~((7))~~ (8) Approval of a prevention plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

~~((8))~~ (9) This section does not authorize the department to modify the terms of a collective bargaining agreement.

Sec. 5. RCW 90.56.210 and 2005 c 78 s 1 are each amended to read as follows:

(1) Each onshore and offshore facility shall have a contingency plan for the containment and cleanup of oil spills from the facility into the waters of the state and for the protection of fisheries and wildlife, shellfish beds, natural resources, and public and private property from such spills. The department shall by rule adopt and periodically revise standards for the preparation of contingency plans. The department shall require contingency plans, at a minimum, to meet the following standards:

(a) Include full details of the method of response to spills of various sizes from any facility which is covered by the plan;

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the department removing oil and minimizing any damage to the environment resulting from a worst case spill;

(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

(d) Provide procedures for early detection of oil spills and timely notification of such spills to appropriate federal, state, and local authorities under applicable state and federal law;

(e) State the number, training preparedness, and fitness of all dedicated, prepositioned personnel assigned to direct and implement the plan;

(f) Incorporate periodic training and drill programs to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times;

(g) Describe important features of the surrounding environment, including fish and wildlife habitat, shellfish beds, environmentally and archaeologically sensitive areas, and public facilities. The departments of ecology, fish and wildlife, and natural resources, and the ~~(office)~~ department of archaeology and historic preservation, upon request, shall provide information that they have available to assist in preparing this description. The description of archaeologically sensitive areas shall not be required to be included in a contingency plan until it is reviewed and updated pursuant to subsection (9) of this section;

(h) State the means of protecting and mitigating effects on the environment, including fish, shellfish, marine mammals, and other

wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

(i) Provide arrangements for the repositioning of oil spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;

(j) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

(k) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;

(l) Until a spill prevention plan has been submitted pursuant to RCW 90.56.200, state the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a facility, training of personnel, number of personnel, and backup systems designed to prevent a spill;

(m) State the amount and type of equipment available to respond to a spill, where the equipment is located, and the extent to which other contingency plans rely on the same equipment; and

(n) If the department has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department's rules.

(2)(a) The following shall submit contingency plans to the department within six months after the department adopts rules establishing standards for contingency plans under subsection (1) of this section:

(i) Onshore facilities capable of storing one million gallons or more of oil; and

(ii) Offshore facilities.

(b) Contingency plans for all other onshore and offshore facilities shall be submitted to the department within eighteen months after the department has adopted rules under subsection (1) of this section. The department may adopt a schedule for submission of plans within the eighteen-month period.

(3) The department by rule shall determine the contingency plan requirements for railroads transporting oil in bulk. Federal oil spill response plans created pursuant to 33 U.S.C. Sec. 1321 may be submitted in lieu of contingency plans until state rules are adopted.

(4)(a) The owner or operator of a facility shall submit the contingency plan for the facility.

(b) A person who has contracted with a facility to provide containment and cleanup services and who meets the standards established pursuant to RCW 90.56.240, may submit the plan for any facility for which the person is contractually obligated to provide services. Subject to conditions imposed by the department, the person may submit a single plan for more than one facility.

~~((4))~~ (5) A contingency plan prepared for an agency of the federal government or another state that satisfies the requirements of this section and rules adopted by the department may be accepted by the department as a contingency plan under this section. The department shall ensure that to the greatest extent possible, requirements for contingency plans under this section are consistent with the requirements for contingency plans under federal law.

~~((5))~~ (6) In reviewing the contingency plans required by this section, the department shall consider at least the following factors:

(a) The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call down lists, response time, and logistical arrangements for coordination and implementation of response efforts to remove oil spills promptly and properly and to protect the environment;

(b) The nature and amount of vessel traffic within the area covered by the plan;

(c) The volume and type of oil being transported within the area covered by the plan;

(d) The existence of navigational hazards within the area covered by the plan;

(e) The history and circumstances surrounding prior spills of oil within the area covered by the plan;

(f) The sensitivity of fisheries, shellfish beds, and wildlife and other natural resources within the area covered by the plan;

(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the department; and

(h) The extent to which reasonable, cost-effective measures to prevent a likelihood that a spill will occur have been incorporated into the plan.

~~((6))~~ (7) The department shall approve a contingency plan only if it determines that the plan meets the requirements of this section and that, if implemented, the plan is capable, in terms of personnel, materials, and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

~~((7))~~ (8) The approval of the contingency plan shall be valid for five years. Upon approval of a contingency plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the facilities or vessels covered by the plan, and other information the department determines should be included.

~~((8))~~ (9) An owner or operator of a facility shall notify the department in writing immediately of any significant change of which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a contingency plan as a result of these changes.

~~((9))~~ (10) The department by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

~~((10))~~ (11) Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

Sec. 6. RCW 90.56.500 and 2009 c 11 s 9 are each amended to read as follows:

(1) The state oil spill response account is created in the state treasury. All receipts from RCW 82.23B.020(1) shall be deposited in the account. All costs reimbursed to the state by a responsible party or any other person for responding to a spill of oil shall also be deposited in the account. Moneys in the account shall be spent only after appropriation. The account is subject to allotment procedures under chapter 43.88 RCW.

(2) The account shall be used exclusively to pay for:

(a) The costs associated with the response to spills or threats of spills of crude oil or petroleum products into the ~~((navigable))~~ waters of the state; and

(b) The costs associated with the department's use of ~~((the))~~ an emergency response towing vessel ~~((as described in RCW 88.46.135))~~.

(3) Payment of response costs under subsection (2)(a) of this section shall be limited to spills which the director has determined are likely to exceed ~~((fifty))~~ one thousand dollars.

(4) Before expending moneys from the account, but without delaying response activities, the director shall make reasonable efforts to obtain funding for response costs under subsection (2) of this section from the person responsible for the spill and from other sources, including the federal government.

(5) Reimbursement for response costs from this account shall be allowed only for costs which are not covered by funds appropriated to the agencies responsible for response activities. Costs associated with the response to spills of crude oil or petroleum products shall include:

(a) Natural resource damage assessment and related activities;
(b) Spill related response, containment, wildlife rescue, cleanup, disposal, and associated costs;

(c) Interagency coordination and public information related to a response; and

(d) Appropriate travel, goods and services, contracts, and equipment.

Sec. 7. RCW 90.56.510 and 2000 c 69 s 22 are each amended to read as follows:

(1) The oil spill prevention account is created in the state treasury. All receipts from RCW 82.23B.020(2) shall be deposited in the account. Moneys from the account may be spent only after appropriation. The account is subject to allotment procedures under chapter 43.88 RCW. If, on the first day of any calendar month, the balance of the oil spill response account is greater than nine million dollars and the balance of the oil spill prevention account exceeds the unexpended appropriation for the current biennium, then the tax under RCW 82.23B.020(2) shall be suspended on the first day of the next calendar month until the beginning of the following biennium, provided that the tax shall not be suspended during the last six months of the biennium. If the tax imposed under RCW 82.23B.020(2) is suspended during two consecutive biennia, the department shall by November 1st after the end of the second biennium, recommend to the appropriate standing committees an adjustment in the tax rate. For the biennium ending June 30, 1999, and the biennium ending June 30, 2001, the state treasurer may transfer a total of up to one million dollars from the oil spill response account to the oil spill prevention account to support appropriations made from the oil spill prevention account in the omnibus appropriations act adopted not later than June 30, 1999.

(2) Expenditures from the oil spill prevention account shall be used exclusively for the administrative costs related to the purposes of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. In addition, until June 30, 2019, expenditures from the oil spill prevention account may be used for the development and annual review of local emergency planning committee emergency response plans in RCW 38.52.040(3). Starting with the 1995-1997 biennium, the legislature shall give activities of state agencies related to prevention of oil spills priority in funding from the oil spill prevention account. Costs of prevention include the costs of:

(a) Routine responses not covered under RCW 90.56.500;

(b) Management and staff development activities;

(c) Development of rules and policies and the statewide plan provided for in RCW 90.56.060;

(d) Facility and vessel plan review and approval, drills, inspections, investigations, enforcement, and litigation;

(e) Interagency coordination and public outreach and education;

(f) Collection and administration of the tax provided for in chapter 82.23B RCW; and

(g) Appropriate travel, goods and services, contracts, and equipment.

(3) Before expending moneys from the account for a response under subsection (2)(a) of this section, but without delaying response activities, the director shall make reasonable efforts to obtain funding for response costs under this section from the person responsible for the spill and from other sources, including the federal government.

NEW SECTION. Sec. 8. A new section is added to chapter 90.56 RCW to read as follows:

(1)(a) A facility that receives crude oil from a railroad car must provide advance notice to the department that the facility will receive crude oil from a railroad car, as provided in this section. The advance notice must include the route taken to the facility within the state, if known, and the scheduled time, location,

volume, and type of crude oil received. Each week, a facility that provides advance notice under this section must provide the required information regarding the scheduled arrival of railroad cars carrying crude oil to be received by the facility in the succeeding seven-day period. A facility is not required to provide advance notice when there is no receipt of crude oil from a railroad car scheduled for a seven-day period.

(b) Twice per year, pipelines must report to the department the following information about the crude oil transported by the pipeline through the state: The volume of crude oil, the type of crude oil, and the types of diluting agents used in the crude oil. This report must be submitted each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(2) The department may share information provided by a facility through the advance notice system established in this section with the state emergency management division and any county, city, tribal, port, or local government emergency response agency upon request.

(3) The department must publish information collected under this section on a quarterly basis on the department's internet web site. With respect to the information reported under subsection (1)(a) of this section, the information published by the department must be aggregated on a statewide basis by route through the state, by week, and by type of crude oil. The report may also include other information available to the department including, but not limited to, place of origin, modes of transport, number of railroad cars delivering crude oil, and number and volume of spills during transport and delivery.

(4)(a) A facility providing advance notice under this section is not responsible for meeting advance notice time frame requirements under subsection (1) of this section in the event that the schedule of arrivals of railroad cars carrying crude oil changes during a seven-day period.

(b) Twice per year, a facility must submit a report to the department that corrects inaccuracies in the advanced notices submitted under subsection (1) of this section. The facility is not required to correct in the report any insubstantial discrepancies between actual and scheduled train arrival times. The report must be submitted each year by July 31st for the period January 1st through June 30th and by January 31st for the period July 1st through December 31st.

(5) Consistent with the requirements of chapter 42.56 RCW, the department and any state, local, tribal, or public agency that receives information provided under this section may not disclose any such information to the public or to nongovernmental entities that is not aggregated and that contains proprietary, commercial, or financial information. The requirement for aggregating information does not apply when information is shared by the department with emergency response agencies as provided in subsection (2) of this section.

(6) The department shall adopt rules to implement this section. The advance notice system required in this section must be consistent with the oil transfer reporting system adopted by the department pursuant to RCW 88.46.165.

NEW SECTION. Sec. 9. A new section is added to chapter 90.56 RCW to read as follows:

The department shall periodically evaluate and update planning standards for oil spill response equipment required under contingency plans required by this chapter in order to ensure access in the state to equipment that represents the best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety, as determined by the incident commander or the unified command.

Sec. 10. RCW 88.40.011 and 2007 c 347 s 4 are each amended to read as follows:

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

(1) "Barge" means a vessel that is not self-propelled.

(2) "Cargo vessel" means a self-propelled ship in commerce, other than a tank vessel, fishing vessel, or a passenger vessel, of three hundred or more gross tons.

(3) "Bulk" means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.

(4) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

(5) "Department" means the department of ecology.

(6) "Director" means the director of the department of ecology.

(7)(a) "Facility" means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that transfers oil in bulk to or from any vessel with an oil carrying capacity over two hundred fifty barrels or pipeline, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.

(b) For the purposes of oil spill contingency planning in RCW 90.56.210, advanced notice of oil transfers in section 8 of this act, and financial responsibility in RCW 88.40.025, facility also means a railroad that is not owned by the state that transports oil as bulk cargo.

(c) A facility does not include any: (i) ~~(Railroad car,)~~ Motor vehicle ~~(or other rolling stock)~~ while transporting oil over the highways ~~(or rail lines)~~ of this state; (ii) retail motor vehicle motor fuel outlet; (iii) facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; (iv) underground storage tank regulated by the department or a local government under chapter 90.76 RCW; or (v) marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a covered vessel, in a single transaction.

(8) "Fishing vessel" means a self-propelled commercial vessel of three hundred or more gross tons that is used for catching or processing fish.

(9) "Gross tons" means tonnage as determined by the United States coast guard under 33 C.F.R. section 138.30.

(10) "Hazardous substances" means any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section ~~((401(14)))~~ 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499. The following are not hazardous substances for purposes of this chapter:

(a) Wastes listed as F001 through F028 in Table 302.4; and

(b) Wastes listed as K001 through K136 in Table 302.4.

(11) "Navigable waters of the state" means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(12) "Oil" or "oils" means oil of any kind that is liquid at ~~((atmospheric temperature))~~ twenty-five degrees Celsius and one atmosphere of pressure and any fractionation thereof, including, but not limited to, crude oil, bitumen, synthetic crude oil, natural gas well condensate, petroleum, gasoline, fuel oil, diesel oil, biological oils and blends, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed as of March 1, 2003, in Table 302.4 of 40 C.F.R. Part 302 adopted under section ~~((401(14)))~~ 102(a) of the federal comprehensive environmental response, compensation, and liability act of 1980, as amended by P.L. 99-499.

(13) "Offshore facility" means any facility located in, on, or under any of the navigable waters of the state, but does not include a facility any part of which is located in, on, or under any land of the state, other than submerged land.

(14) "Onshore facility" means any facility any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.

(15)(a) "Owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel; (ii) in the case of an onshore or offshore facility, any person owning or operating the facility; and (iii) in the case of an abandoned vessel or onshore or offshore facility, the person who owned or operated the vessel or facility immediately before its abandonment.

(b) "Operator" does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.

(16) "Passenger vessel" means a ship of three hundred or more gross tons with a fuel capacity of at least six thousand gallons carrying passengers for compensation.

(17) "Ship" means any boat, ship, vessel, barge, or other floating craft of any kind.

(18) "Spill" means an unauthorized discharge of oil into the waters of the state.

(19) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(20) "Waters of the state" includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(21) "Certificate of financial responsibility" means an official written acknowledgment issued by the director or the director's designee that an owner or operator of a covered vessel or facility, or the owner of the oil, has demonstrated to the satisfaction of the director or the director's designee that the relevant entity has the financial ability to pay for costs and damages caused by an oil spill.

Sec. 11. RCW 88.40.020 and 2003 c 91 s 3 and 2003 c 56 s 3 are each reenacted and amended to read as follows:

(1) Any barge that transports hazardous substances in bulk as cargo, using any port or place in the state of Washington or the navigable waters of the state shall establish evidence of financial responsibility in the amount of the greater of five million dollars, or three hundred dollars per gross ton of such vessel.

(2)(a) Except as provided in (b) or (c) of this subsection, a tank vessel that carries oil as cargo in bulk shall demonstrate financial responsibility to pay at least five hundred million dollars. The amount of financial responsibility required under this subsection is one billion dollars after January 1, 2004.

(b) The director by rule may establish a lesser standard of financial responsibility for tank vessels of three hundred gross tons or less. The standard shall set the level of financial responsibility based on the quantity of cargo the tank vessel is capable of carrying. The director shall not set the standard for tank vessels of three hundred gross tons or less below that required under federal law.

(c) The owner or operator of a tank vessel who is a member of an international protection and indemnity mutual organization and is covered for oil pollution risks up to the amounts required under

this section is not required to demonstrate financial responsibility under this chapter. The director may require the owner or operator of a tank vessel to prove membership in such an organization.

(3)(a) A cargo vessel or passenger vessel that carries oil as fuel shall demonstrate financial responsibility to pay at least three hundred million dollars. However, a passenger vessel that transports passengers and vehicles between Washington state and a foreign country shall demonstrate financial responsibility to pay the greater of at least six hundred dollars per gross ton or five hundred thousand dollars.

(b) The owner or operator of a cargo vessel or passenger vessel who is a member of an international protection and indemnity mutual organization and is covered for oil pollution risks up to the amounts required under this section is not required to demonstrate financial responsibility under this chapter. The director may require the owner or operator of a cargo vessel or passenger vessel to prove membership in such an organization.

(4) A fishing vessel while on the navigable waters of the state must demonstrate financial responsibility in the following amounts: (a) For a fishing vessel carrying predominantly nonpersistent product, one hundred thirty-three dollars and forty cents per incident, for each barrel of total oil storage capacity, persistent and nonpersistent product, on the vessel or one million three hundred thirty-four thousand dollars, whichever is greater; or (b) for a fishing vessel carrying predominantly persistent product, four hundred dollars and twenty cents per incident, for each barrel of total oil storage capacity, persistent product and nonpersistent product, on the vessel or six million six hundred seventy thousand dollars, whichever is greater.

~~(5) The ((documentation of financial responsibility shall demonstrate the ability of the document holder to meet state and federal financial liability requirements for the actual costs for removal of oil spills, for natural resource damages, and for necessary expenses))~~ certificate of financial responsibility is conclusive evidence that the person or entity holding the certificate is the party responsible for the specified vessel, facility, or oil for purposes of determining liability pursuant to this chapter.

(6) This section shall not apply to a covered vessel owned or operated by the federal government or by a state or local government.

Sec. 12. RCW 88.40.025 and 1991 c 200 s 704 are each amended to read as follows:

An onshore or offshore facility shall demonstrate financial responsibility in an amount determined by the department as necessary to compensate the state and affected counties and cities for damages that might occur during a reasonable worst case spill of oil from that facility into the navigable waters of the state. The department shall ~~((consider such matters as the amount of oil that could be spilled into the navigable waters from the facility, the cost of cleaning up the spilled oil, the frequency of operations at the facility, the damages that could result from the spill and the commercial availability and affordability of financial responsibility))~~ adopt by rule an amount that will be calculated by multiplying the reasonable per barrel cleanup and damage cost of spilled oil, times the reasonable worst case spill volume, as measured in barrels. This section shall not apply to an onshore or offshore facility owned or operated by the federal government or by the state or local government.

Sec. 13. RCW 88.40.030 and 2000 c 69 s 32 are each amended to read as follows:

(1) Financial responsibility required by this chapter may be established by any one of, or a combination of, the following methods acceptable to the department of ecology: ((1)) (a) Evidence of insurance; ((2)) (b) surety bonds; ((3)) (c) qualification as a self-insurer; ((4)) (d) guaranty; (e) letter of credit; (f) certificate of deposits; (g) protection and indemnity club

membership; or (h) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. Documentation of such financial responsibility shall be kept on any covered vessel and filed with the department at least twenty-four hours before entry of the vessel into the navigable waters of the state. A covered vessel is not required to file documentation of financial responsibility twenty-four hours before entry of the vessel into the navigable waters of the state, if the vessel has filed documentation of financial responsibility with the federal government, and the level of financial responsibility required by the federal government is the same as or exceeds state requirements. The owner or operator of the vessel may file with the department a certificate evidencing compliance with the requirements of another state's or federal financial responsibility requirements if the state or federal government requires a level of financial responsibility the same as or greater than that required under this chapter.

(2) A certificate of financial responsibility may not have a term greater than one year.

Sec. 14. RCW 88.40.040 and 2003 c 56 s 4 are each amended to read as follows:

(1) ~~(It is unlawful for any vessel required to have financial responsibility under this chapter to enter or operate on Washington waters without meeting the requirements of this chapter or rules adopted under this chapter, except)~~ A vessel or facility need not demonstrate financial responsibility under this chapter prior to using any port or place in the state of Washington or the navigable waters of the state when necessary to avoid injury to the vessel's or facility's crew or passengers. Any vessel owner or operator that does not meet the financial responsibility requirements of this chapter and any rules prescribed thereunder or the federal oil pollution act of 1990 shall be reported by the department to the United States coast guard.

(2) ~~(The department shall enforce section 1016 of the federal oil pollution act of 1990 as authorized by section 1019 of the federal act.)~~ Upon notification of an oil spill or discharge or other action or potential liability, the director shall reevaluate the validity of the certificate of financial responsibility. If the director determines that, because of a spill outside of the state or some other action or potential liability, the holder of a certificate may not have the financial resources to pay damages for the oil spill or discharge or other action or potential liability and have resources remaining available to meet the requirements of this chapter, the director may suspend or revoke the certificate.

(3) An owner or operator of more than one covered vessel, more than one facility, or one or more vessels and facilities, is only required to obtain a single certificate of financial responsibility that applies to all of the owner or operator's vessels and facilities.

(4) If a person holds a certificate for more than one covered vessel or facility and a spill or spills occurs from one or more of those vessels or facilities for which the owner or operator may be liable for damages in an amount exceeding five percent of the financial resources reflected by the certificate, as determined by the director, the certificate is immediately considered inapplicable to any vessel or facility not associated with the spill. In that event, the owner or operator shall demonstrate to the satisfaction of the director the amount of financial ability required pursuant to this chapter, as well as the financial ability to pay all damages that arise or have arisen from the spill or spills that have occurred.

Sec. 15. RCW 88.16.170 and 1991 c 200 s 601 are each amended to read as follows:

Because of the danger of spills, the legislature finds that the transportation of crude oil and refined petroleum products by tankers on the Columbia river, Grays Harbor, and on Puget Sound and adjacent waters creates a great potential hazard to important

natural resources of the state and to jobs and incomes dependent on these resources.

The legislature recognizes that the Columbia river has many natural obstacles to navigation and shifting navigation channels that create the risk of an oil spill. The legislature also recognizes Grays Harbor and Puget Sound and adjacent waters are ((a)) relatively confined salt water environments with irregular shorelines and therefore there is a greater than usual likelihood of long-term damage from any large oil spill.

The legislature further recognizes that certain areas of the Columbia river, Grays Harbor, and Puget Sound and adjacent waters have limited space for maneuvering a large oil tanker and that these waters contain many natural navigational obstacles as well as a high density of commercial and pleasure boat traffic.

For these reasons, it is important that large oil tankers be piloted by highly skilled persons who are familiar with local waters and that such ~~((tankers))~~ vessels have sufficient capability for rapid maneuvering responses.

It is therefore the intent and purpose of RCW 88.16.180 and 88.16.190 to decrease the likelihood of oil spills on the Columbia river, Grays Harbor, and on Puget Sound and its shorelines by ~~((requiring all oil tankers above a certain size to employ licensed pilots and to be escorted by a tug or tugs while navigating on certain areas of Puget Sound and adjacent waters))~~ establishing safety requirements that comprehensively address spill risks, which may include the establishment of tug escorts and other measures to mitigate safety risks in certain state waters.

Sec. 16. RCW 88.16.190 and 1994 c 52 s 1 are each amended to read as follows:

(1) ~~((Any oil tanker, whether enrolled or registered, of greater than one hundred and twenty five thousand deadweight tons shall be prohibited from proceeding beyond a point east of a line extending from Discovery Island light south to New Dungeness light.~~

(2) An oil tanker, whether enrolled or registered, of forty to one hundred and twenty five thousand deadweight tons may proceed beyond the points enumerated in subsection (1) if such tanker possesses all of the following standard safety features:

(a) Shaft horsepower in the ratio of one horsepower to each two and one half deadweight tons; and

(b) Twin screws; and

(c) Double bottoms, underneath all oil and liquid cargo compartments; and

(d) Two radars in working order and operating, one of which must be collision avoidance radar; and

(e) Such other navigational position location systems as may be prescribed from time to time by the board of pilotage commissioners:

PROVIDED, That, if such forty to one hundred and twenty-five thousand deadweight ton tanker is in ballast or is under escort of a tug or tugs with an aggregate shaft horsepower equivalent to five percent of the deadweight tons of that tanker, subsection (2) of this section shall not apply: PROVIDED FURTHER, That additional tug shaft horsepower equivalencies may be required under certain conditions as established by rule and regulation of the Washington utilities and transportation commission pursuant to chapter 34.05 RCW: PROVIDED FURTHER, That) Except as provided in subsection (3) of this section, an oil tanker of greater than forty thousand deadweight tons may operate in the waters described in (a) of this subsection, to the extent that these waters are within the territorial boundaries of Washington, only if the oil tanker is under the escort of a tug or tugs in compliance with the requirements of subsection (5) of this section.

(a) Those waters east of a line extending from Discovery Island light south to New Dungeness light and all points in the Puget Sound area.

(b) The state board of pilotage commissioners, in consultation with the department of ecology and relying on the results of vessel traffic risk assessments, may write rules to implement this subsection (1)(b), but only after an event described in subsection (2) of this section takes place and only for the waters directly affected by the facility event. These rules may include tug escort requirements and other safety measures for oil tankers of greater than forty thousand deadweight tons, all articulated tug barges, and other towed waterborne vessels or barges that may apply in the following areas consistent with subsections (3)(a) and (5) of this section:

(i) Within a two-mile radius of the Grays Harbor pilotage district as defined in RCW 88.16.050;

(ii) Any inland portion of the Columbia river or within three miles of Cape Disappointment at the mouth of the Columbia river; or

(iii) The waters identified in (a) of this subsection.

(c) The state board of pilotage commissioners, in consultation with the department of ecology and relying on the results of vessel traffic risk assessments, shall adopt rules by June 30, 2017, to implement this subsection (1)(c). These rules may include tug escort requirements and other safety measures for oil tankers of greater than forty thousand deadweight tons, all articulated tug barges, and other towed waterborne vessels or barges and apply in the following areas consistent with subsections (3)(a) and (5) of this section: The waters described in (a) of this subsection, including all narrow channels of the San Juan Islands archipelago, Rosario Strait, Haro Strait, Boundary Pass, and connected waterways.

(2) The state board of pilotage commissioners may adopt rules under subsection (1)(b) of this section only after:

(a) The governor approves, after January 1, 2015, a recommendation of the energy facility site evaluation council pursuant to RCW 80.50.100 to certify a facility meeting the criteria listed in RCW 80.50.020(12) (d) or (f);

(b) A state agency or a local jurisdiction makes a final determination or issues a final permit after January 1, 2015, to site a new facility required to have a contingency plan pursuant to chapter 90.56 RCW or to provide authority for the first time to process or receive crude oil, as defined in chapter 90.56 RCW, to an existing facility required to have a contingency plan pursuant to chapter 90.56 RCW, other than a facility that is:

(i) A transmission pipeline; or

(ii) A railroad facility; or

(c) The state of Oregon or any local jurisdiction in Oregon makes a final determination or issues a final permit to site a new facility in the watershed of the Columbia river that would be required to have a contingency plan pursuant to chapter 90.56 RCW if an identical facility were located in Washington, or to provide authority for the first time to process or receive crude oil, as defined in chapter 90.56 RCW, to an existing facility that would be required to have a contingency plan pursuant to chapter 90.56 RCW if an identical facility were located in Washington, other than a facility that is:

(i) A transmission pipeline; or

(ii) A railroad facility.

(3)(a) If an oil tanker, articulated tug barge, or other towed waterborne vessel or barge is in ballast, the tug requirements of subsection (1) of this section do not apply.

(b) If an oil tanker is a single-hulled oil tanker of greater than five thousand gross tons, the requirements of subsection (1)(a) of this section do not apply and the oil tanker must instead comply with 33 C.F.R. Part 168, as of the effective date of this section.

(4)(a) Prior to proceeding with rule making as authorized under subsection (1)(b) and (c) of this section, the state board of pilotage commissioners must collaborate with the United States

coast guard, the Oregon board of maritime pilots, the Puget Sound, Grays Harbor, and Columbia river harbor safety committees, area tribes, public ports in Oregon and Washington, local governments, and other appropriate entities. In adopting rules, the state board of pilotage commissioners must take into account any tug escort or other maritime safety measures for a water body that were or are required as mitigation or as a condition of a facility siting decision by a state agency or local jurisdiction.

(b) The department may not adopt any rules under this subsection or under subsection (1)(b) and (c) of this section until a vessel traffic risk assessment has been completed for the waters subject to the rule making. In order to adopt a rule under this section or subsection (1)(b) and (c) of this section, the board of pilotage commissioners must determine that the results of a vessel traffic risk assessment provides evidence that the rules are necessary in order to achieve best achievable protection as defined in RCW 88.46.010. In order for the state board of pilotage commissioners to rely on a vessel traffic risk assessment that is conducted after January 1, 2015, the vessel traffic risk assessment must involve a simulation analysis of vessel traffic. A simulation analysis is not required of a vessel traffic risk assessment relied upon by the state board of pilotage commissioners that was conducted before January 1, 2015.

(5) Oil tankers of greater than forty thousand deadweight tons, all articulated tug barges, and other towed waterborne vessels or barges must ensure that any escort tugs they use have an aggregate shaft horsepower equivalent to at least five percent of the deadweight tons of the escorted oil tanker or articulated tug barge. The state board of pilotage commissioners may adopt rules to ensure that escort tugs have sufficient mechanical capabilities to provide for safe escort. Rules adopted on this subject must be designed to achieve best achievable protection as defined under RCW 88.46.010.

(6) A tanker assigned a deadweight of equal to or less than forty thousand deadweight tons at the time of construction or reconstruction as reported in Lloyd's Register of Ships is not subject to the provisions of RCW 88.16.170 through 88.16.190.

(7) The provisions of this section do not apply to pilotage for enrolled tankers.

(8) For the purposes of this section:

(a) "Articulated tug barge" means a tank barge and a towing vessel joined by hinged or articulated fixed mechanical equipment affixed or connecting to the stern of the tank barge.

(b) "Oil tanker" means a self-propelled deep draft tank vessel designed to transport oil in bulk. "Oil tanker" does not include an articulated tug barge tank vessel.

(c) "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

Sec. 17. RCW 82.23B.010 and 1992 c 73 s 6 are each amended to read as follows:

(Unless the context clearly requires otherwise,)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Barrel" means a unit of measurement of volume equal to forty-two United States gallons of crude oil or petroleum product.

(2) "Crude oil" means any naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline.

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

(4) "Marine terminal" means a facility of any kind, other than a waterborne vessel, that is used for transferring crude oil or petroleum products to or from a waterborne vessel or barge.

(5) "Navigable waters" means those waters of the state and their adjoining shorelines that are subject to the ebb and flow of the tide, including the Columbia and Snake rivers.

(6) "Person" has the meaning provided in RCW 82.04.030.

(7) "Petroleum product" means any liquid hydrocarbons at atmospheric temperature and pressure that are the product of the fractionation, distillation, or other refining or processing of crude oil, and that are used as, useable as, or may be refined as a fuel or fuel blendstock, including but not limited to, gasoline, diesel fuel, aviation fuel, bunker fuel, and fuels containing a blend of alcohol and petroleum.

(8) "Taxpayer" means the person owning crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal in this state (~~from a waterborne vessel or barge~~) and who is liable for the taxes imposed by this chapter.

(9) "Waterborne vessel or barge" means any ship, barge, or other watercraft capable of (~~travelling~~) traveling on the navigable waters of this state and capable of transporting any crude oil or petroleum product in quantities of ten thousand gallons or more for purposes other than providing fuel for its motor or engine.

(10) "Bulk oil terminal" means a facility of any kind, other than a waterborne vessel, that is used for transferring crude oil or petroleum products from a tank car or pipeline.

(11) "Tank car" means a rail car, the body of which consists of a tank for transporting liquids.

Sec. 18. RCW 82.23B.020 and 2006 c 256 s 2 are each amended to read as follows:

(1) An oil spill response tax is imposed on the privilege of receiving: (a) Crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state; (b) crude oil or petroleum products at a bulk oil terminal within this state from a tank car; or (c) crude oil or petroleum products at a bulk oil terminal within this state from a pipeline. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal from a tank car, pipeline, or waterborne vessel or barge at the rate of one cent per barrel of crude oil or petroleum product received.

(2) In addition to the tax imposed in subsection (1) of this section, an oil spill administration tax is imposed on the privilege of receiving: (a) Crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state; (b) crude oil or petroleum products at a bulk oil terminal within this state from a tank car; and (c) crude oil or petroleum products at a bulk oil terminal within this state from a pipeline. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine or bulk oil terminal from a tank car, pipeline, or waterborne vessel or barge at the rate of (~~four~~) eight cents per barrel of crude oil or petroleum product.

(3) The taxes imposed by this chapter (~~shall~~) must be collected by the marine or bulk oil terminal operator from the taxpayer. If any person charged with collecting the taxes fails to bill the taxpayer for the taxes, or in the alternative has not notified the taxpayer in writing of the (~~imposition of the~~) taxes imposed, or having collected the taxes, fails to pay them to the department in the manner prescribed by this chapter, whether such failure is the result of the person's own acts or the result of acts or conditions beyond the person's control, he or she (~~shall~~), nevertheless, (~~be~~) is personally liable to the state for the amount of the taxes. Payment of the taxes by the owner to a marine or bulk oil terminal operator (~~shall~~) relieves the owner from further liability for the taxes.

(4) Taxes collected under this chapter (~~shall~~) must be held in trust until paid to the department. Any person collecting the taxes who appropriates or converts the taxes collected (~~shall be~~) is guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. The taxes required by this chapter to be collected (~~shall~~) must be stated separately from other charges made by the marine or bulk oil terminal operator in any invoice or other statement of account provided to the taxpayer.

(5) If a taxpayer fails to pay the taxes imposed by this chapter to the person charged with collection of the taxes and the person charged with collection fails to pay the taxes to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the taxes.

(6) The taxes (~~shall be~~) are due from the marine or bulk oil terminal operator, along with reports and returns on forms prescribed by the department, within twenty-five days after the end of the month in which the taxable activity occurs.

(7) The amount of taxes, until paid by the taxpayer to the marine or bulk oil terminal operator or to the department, (~~shall~~) constitutes a debt from the taxpayer to the marine or bulk oil terminal operator. Any person required to collect the taxes under this chapter who, with intent to violate the provisions of this chapter, fails or refuses to do so as required and any taxpayer who refuses to pay any taxes due under this chapter, (~~shall be~~) is guilty of a misdemeanor as provided in chapter 9A.20 RCW.

(8) Upon prior approval of the department, the taxpayer may pay the taxes imposed by this chapter directly to the department. The department (~~shall~~) must give its approval for direct payment under this section whenever it appears, in the department's judgment, that direct payment will enhance the administration of the taxes imposed under this chapter. The department (~~shall~~) must provide by rule for the issuance of a direct payment certificate to any taxpayer qualifying for direct payment of the taxes. Good faith acceptance of a direct payment certificate by a terminal operator (~~shall~~) relieves the marine or bulk oil terminal operator from any liability for the collection or payment of the taxes imposed under this chapter.

(9) All receipts from the tax imposed in subsection (1) of this section (~~shall~~) must be deposited into the state oil spill response account. All receipts from the tax imposed in subsection (2) of this section shall be deposited into the oil spill prevention account.

(10) Within forty-five days after the end of each calendar quarter, the office of financial management (~~shall~~) must determine the balance of the oil spill response account as of the last day of that calendar quarter. Balance determinations by the office of financial management under this section are final and (~~shall~~) may not be used to challenge the validity of any tax imposed under this chapter. The office of financial management (~~shall~~) must promptly notify the departments of revenue and ecology of the account balance once a determination is made. For each subsequent calendar quarter, the tax imposed by subsection (1) of this section shall be imposed during the entire calendar quarter unless:

(a) Tax was imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than nine million dollars; or

(b) Tax was not imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than eight million dollars.

Sec. 19. RCW 82.23B.030 and 1992 c 73 s 9 are each amended to read as follows:

The taxes imposed under this chapter (~~shall~~) only apply to the first receipt of crude oil or petroleum products at a marine or bulk oil terminal in this state and not to the later transporting and subsequent receipt of the same oil or petroleum product, whether

in the form originally received at a marine or bulk oil terminal in this state or after refining or other processing.

Sec. 20. RCW 82.23B.040 and 1992 c 73 s 10 are each amended to read as follows:

Credit (~~shall~~) must be allowed against the taxes imposed under this chapter for any crude oil or petroleum products received at a marine or bulk oil terminal and subsequently exported from or sold for export from the state.

Sec. 21. RCW 38.52.040 and 2011 1st sp.s. c 21 s 27, 2011 c 336 s 789, and 2011 c 79 s 9 are each reenacted and amended to read as follows:

(1) There is hereby created the emergency management council (hereinafter called the council), to consist of not more than seventeen members who shall be appointed by the adjutant general. The membership of the council shall include, but not be limited to, representatives of city and county governments, sheriffs and police chiefs, the Washington state patrol, the military department, the department of ecology, state and local fire chiefs, seismic safety experts, state and local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, building officials, and private industry. The representatives of private industry shall include persons knowledgeable in emergency and hazardous materials management. The councilmembers shall elect a chair from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The emergency management council shall advise the governor and the director on all matters pertaining to state and local emergency management. The council may appoint such ad hoc committees, subcommittees, and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies, or procedures. The council shall ensure that the governor receives an annual assessment of statewide emergency preparedness including, but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards, and coordination of hazardous materials planning and response activities. ~~((The council or a subcommittee thereof shall periodically convene in special session and serve during those sessions as the state emergency response commission required by P.L. 99 499, the emergency planning and community right to know act. When sitting in session as the state emergency response commission, the council shall confine its deliberations to those items specified in federal statutes and state administrative rules governing the coordination of hazardous materials policy.))~~ The council shall review administrative rules governing state and local emergency management practices and recommend necessary revisions to the director.

(3) The council or a council subcommittee shall serve and periodically convene in special session as the state emergency response commission required by the emergency planning and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency response commission shall conduct those activities specified in federal statutes and regulations and state administrative rules governing the coordination of hazardous materials policy including, but not limited to, review of local emergency planning committee emergency response plans for compliance with the planning requirements in the emergency planning and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review their plans to address changed conditions, and submit their plans to the state emergency response commission for review when updated, but not less than at least once every five years. The department may employ staff to

assist local emergency planning committees in the development and annual review of these emergency response plans, with an initial focus on the highest risk communities through which trains that transport oil in bulk travel. By March 1, 2018, the department shall report to the governor and legislature on progress towards compliance with planning requirements. The report must also provide budget and policy recommendations for continued support of local emergency planning.

(4)(a) The intrastate mutual aid committee is created and is a subcommittee of the emergency management council. The intrastate mutual aid committee consists of not more than five members who must be appointed by the council chair from council membership. The chair of the intrastate mutual aid committee is the military department representative appointed as a member of the council. Meetings of the intrastate mutual aid committee must be held at least annually.

(b) In support of the intrastate mutual aid system established in chapter 38.56 RCW, the intrastate mutual aid committee shall develop and update guidelines and procedures to facilitate implementation of the intrastate mutual aid system by member jurisdictions, including but not limited to the following: Projected or anticipated costs; checklists and forms for requesting and providing assistance; recordkeeping; reimbursement procedures; and other implementation issues. These guidelines and procedures are not subject to the rule-making requirements of chapter 34.05 RCW.

Sec. 22. RCW 81.24.010 and 2007 c 234 s 21 are each amended to read as follows:

(1) Every company subject to regulation by the commission, except those listed in subsection (3) of this section, shall, on or before the date specified by the commission for filing annual reports under RCW 81.04.080, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus two-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars, except railroad companies which shall each pay to the commission a fee equal to ~~((one))~~ two and one-half percent of its intrastate gross operating revenue. In the event that the sum total of intrastate gross operating revenues for the railroad companies operating in Washington declines while the sum total of interstate gross operating revenues increases, the commission may assess a reasonable surcharge on railroad companies to enable collection of moneys up to the sum total of revenues collected in fiscal year 2017 from railroad companies operating in Washington. The commission must adopt a rule to implement the surcharge. The commission may, by rule, set minimum fees that do not exceed the cost of collecting the fees. The commission may by rule waive any or all of the minimum fee established pursuant to this section. Any railroad association that qualifies as a nonprofit charitable organization under the federal internal revenue code section 501(c)(3) is exempt from the fee required under this subsection.

(2) The percentage rates of gross operating revenue to be paid in any one year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose railroad companies are classified as class two. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law, shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in.

(3) This section does not apply to private nonprofit transportation providers, auto transportation companies, charter party carriers and excursion service carriers, solid waste collection

companies, motor freight carriers, household goods carriers, commercial ferries, and low-level radioactive waste storage facilities.

NEW SECTION. Sec. 23. A new section is added to chapter 81.44 RCW to read as follows:

Commission employees certified by the federal railroad administration to perform hazardous materials inspections may enter the property of any business that receives, ships, or offers for shipment hazardous materials by rail. Entry shall be at a reasonable time and in a reasonable manner. The purpose of entry is limited to performing inspections, investigations, or surveillance of equipment, records, and operations relating to the packaging, loading, unloading, or transportation of hazardous materials by rail, pursuant only to the state participation program outlined in 49 C.F.R. Part 212. The term "business" is all inclusive and is not limited to common carriers or public service companies.

Sec. 24. RCW 81.53.010 and 2013 c 23 s 302 are each amended to read as follows:

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

~~((The term))~~ (1) "Commission(~~(-)~~)" ~~((when used in this chapter,))~~ means the utilities and transportation commission of Washington.

~~((The term))~~ (2) "Highway(~~(-)~~)" ~~((when used in this chapter,))~~ includes all state and county roads, streets, alleys, avenues, boulevards, parkways, and other public places actually open and in use, or to be opened and used, for travel by the public.

~~((The term))~~ (3) "Railroad(~~(-)~~)" ~~((when used in this chapter,))~~ means every railroad, including interurban and suburban electric railroads, by whatsoever power operated, for the public use in the conveyance of persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, sidings, tracks, stations, and terminal facilities of every kind, used, operated, controlled, managed, or owned by or in connection therewith. The ~~((said))~~ term ~~((shall))~~ also includes every logging and other industrial railway owned or operated primarily for the purpose of carrying the property of its owners or operators or of a limited class of persons, with all tracks, spurs, and sidings used in connection therewith. The ~~((said))~~ term ~~((shall))~~ does not include street railways operating within the limits of any incorporated city or town.

~~((The term))~~ (4) "Railroad company(~~(-)~~)" ~~((when used in this chapter,))~~ includes every corporation, company, association, joint stock association, partnership, or person, its, their, or his or her lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing any railroad(~~(- as that term is defined in this section))~~).

~~((The term))~~ (5) "Over-crossing(~~(-)~~)" ~~((when used in this chapter,))~~ means any point or place where a highway crosses a railroad by passing above the same. "Over-crossing" also means any point or place where one railroad crosses another railroad not at grade.

~~((The term))~~ (6) "Under-crossing(~~(-)~~)" ~~((when used in this chapter,))~~ means any point or place where a highway crosses a railroad by passing under the same. "Under-crossing" also means any point or place where one railroad crosses another railroad not at grade.

~~((The term "over crossing" or "under crossing," shall also mean any point or place where one railroad crosses another railroad not at grade.~~

The term) (7) "Grade crossing(~~(-)~~)" ~~((when used in this chapter,))~~ means any point or place where a railroad crosses a highway or a highway crosses a railroad or one railroad crosses another, at a common grade.

(8) "Private crossing" means any point or place where a railroad crosses a private road at grade or a private road crosses a railroad at grade, where the private road is not a highway.

Sec. 25. RCW 81.53.240 and 1984 c 7 s 375 are each amended to read as follows:

(1) Except to the extent necessary to permit participation by first-class cities in the grade crossing protective fund, when an election to participate is made as provided in RCW 81.53.261 through 81.53.291, or to the extent a first-class city requests to participate in the commission's crossing safety inspection program within the city, this chapter ~~((81.53 RCW))~~ is not operative within the limits of first-class cities, and does not apply to street railway lines operating on or across any street, alley, or other public place within the limits of any city, except that a streetcar line outside of cities of the first class shall not cross a railroad at grade without express authority from the commission. The commission may not change the location of a state highway without the approval of the secretary of transportation, or the location of any crossing thereon adopted or approved by the department of transportation, or grant a railroad authority to cross a state highway at grade without the consent of the secretary of transportation.

(2) Within thirty days of the effective date of this section, first-class cities must provide to the commission a list of all existing public crossings within the limits of a first-class city, including over and under-crossings, including the United States department of transportation number for the crossing. Within thirty days of modifying, closing, or opening a grade crossing within the limits of a first-class city, the city must notify the commission in writing of the action taken, identifying the crossing by United States department of transportation number.

NEW SECTION. Sec. 26. A new section is added to chapter 81.53 RCW to read as follows:

(1) To address the potential public safety hazards presented by private crossings in the state and by the transportation of hazardous materials in the state, including crude oil, the commission is authorized to and must adopt rules governing safety standards for private crossings along the railroad tracks over which crude oil is transported in the state. The commission is also authorized to conduct inspections of the private crossings subject to this section, to order the railroads to make improvements at the private crossings, and enforce the orders.

(2) The commission must adopt rules governing private crossings along railroad tracks over which crude oil is transported in the state, establishing:

(a) Minimum safety standards for the private crossings subject to this section, including, but not limited to, requirements for signage;

(b) Criteria for prioritizing the inspection and improvements of the private crossings subject to this section; and

(c) Requirements governing the responsibilities of railroad companies to oversee the payment and completion of private crossing improvements.

(3) Nothing in this section modifies existing agreements between the railroad company and the landowner governing liability for injuries or damages occurring at the private crossing.

Sec. 27. RCW 88.46.180 and 2011 c 122 s 2 are each amended to read as follows:

(1) The department shall evaluate and update planning standards for oil spill response equipment required under contingency plans required by this chapter, including aerial surveillance, in order to ensure access in the state to equipment that represents the best achievable protection to respond to a worst case spill and provide for continuous operation of oil spill response activities to the maximum extent practicable and without jeopardizing crew safety, as determined by the incident commander or the unified command.

(2) The department shall by rule update the planning standards at five-year intervals to ensure the maintenance of best available protection over time. Rule updates to covered nontank vessels shall minimize potential impacts to discretionary cargo moved through the state.

~~((3) The department shall evaluate and update planning standards for tank vessels by December 31, 2012.))~~

Sec. 28. RCW 42.56.270 and 2014 c 192 s 6, 2014 c 174 s 5, and 2014 c 144 s 6 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), marijuana producer, processor, or retailer license, liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business;

(b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington

consolidated endowment fund or to result in private loss to the providers of this information; (~~and~~)

(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4); (~~and~~)

(22) Financial information supplied to the department of financial institutions or to a portal under RCW 21.20.883, when filed by or on behalf of an issuer of securities for the purpose of obtaining the exemption from state securities registration for small securities offerings provided under RCW 21.20.880 or when filed by or on behalf of an investor for the purpose of purchasing such securities; and

(23)(a) Unaggregated or individual notices of a transfer of crude oil that is financial, proprietary, or commercial information, submitted to the department of ecology pursuant to section 8(1)(a) of this act, and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the notice pursuant to section 8 of this act; and

(b) Information submitted to the department of ecology by pipelines pursuant to section 8(1)(b) of this act that is related to diluting agents contained in transported oil and that is in the possession of the department of ecology or any entity with which the department of ecology has shared the information pursuant to section 8 of this act.

NEW SECTION. Sec. 29. A new section is added to chapter 81.40 RCW to read as follows:

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

(1) "Commission" means the utilities and transportation commission created in chapter 80.01 RCW.

(2) "Hazardous material" means spent nuclear fuel, high level nuclear waste, or class 3 flammable liquids, as defined in the hazardous materials regulations of the United States department of transportation in 49 C.F.R. Part 173 as of the effective date of this section.

(3) "Hazardous material train" means any train:

(a) Carrying twenty or more car loads of a class 3 flammable liquid as defined by the United States department of transportation in 49 C.F.R. Part 173 as of the effective date of this section; or

(b) Containing one or more car loads of spent nuclear fuel or high level nuclear waste.

(4) "Qualified crew member" means a railroad operating craft employee who has been trained and meets the requirements and qualifications as determined by the federal railroad administration for a railroad operating service employee.

(5) "Railroad carrier" means a carrier of persons or property upon vehicles, other than streetcars, operated upon stationary rails, the route of which is principally outside incorporated cities and towns. "Railroad carrier" includes the officers and agents of the railroad carrier.

NEW SECTION. Sec. 30. A new section is added to chapter 81.40 RCW to read as follows:

Except as provided in section 31 of this act, the following minimum crew requirements apply:

(1) Any person, corporation, company, or officer of the court operating any railroad, railway, or any part of any railroad or railway, in the state of Washington, and engaged, as a common carrier, in the transportation of freight or passengers, shall operate all trains and switching assignments over its road with crews consisting of no less than two qualified crew members.

(2)(a) Railroad carriers shall operate all hazardous material trains over its road with crews consisting of no less than three qualified crew members. One qualified train crew member shall be assigned to a position located on the rear of the train and within rolling equipment, situated to safely observe and monitor the train's contents and movement.

(b) Railroad carriers shall operate any hazardous material trains consisting of fifty-one or more car loads of any combination of hazardous materials over its road with crews consisting of no less than four qualified crew members. Two qualified crew members shall be assigned to a position on the rear of the train and within rolling equipment, situated to safely observe and monitor the train's contents and movement.

NEW SECTION. Sec. 31. A new section is added to chapter 81.40 RCW to read as follows:

(1) Trains transporting hazardous material shipments a distance of five miles or less may operate the train with the required crew members positioned on the lead locomotive.

(2)(a) Class II and class III carriers transporting fewer than twenty loaded hazardous material cars on trains operating on their road while at a speed of twenty-five miles per hour or less are exempt from the additional train crew requirements specified in section 30(2) of this act.

(b) The commission may grant exemptions to the minimum crew size requirements to class III railroad carriers that are not transporting hazardous materials on their road.

(3)(a) The commission may order class I or II railroad carriers to exceed the minimum crew size and operate specific trains, routes, or switching assignments on their road with additional numbers of qualified crew members if it is determined that such an increase in crew size is necessary to protect the safety, health, and welfare of the public and railroad employees, to prevent harm to the environment, and to address local safety and security hazards.

(b) In issuing such an order the commission may consider relevant factors including but not limited to the volatility of the commodities being transported, vulnerabilities, risk exposure to localities along the train route, security risks including sabotage or terrorism threat levels, a railroad carriers prior history of accidents, compliance violations, and track and equipment maintenance issues.

NEW SECTION. Sec. 32. A new section is added to chapter 81.40 RCW to read as follows:

(1) Each train or engine run in violation of section 30 of this act constitutes a separate offense. However, section 30 of this act does not apply in the case of disability of one or more members of any train crew while out on the road between division terminals, or assigned to wrecking trains.

(2) Any person, corporation, company, or officer of the court operating any railroad, or part of any railroad or railway within the state of Washington, and engaged as a common carrier, in the transportation of freight or passengers, who violates any of the provisions of section 30 of this act shall be fined not less than one thousand dollars and not more than one hundred thousand dollars for each offense.

(3) It is the duty of the commission to enforce this section.

NEW SECTION. Sec. 33. The following acts or parts of acts are each repealed:

(1) RCW 81.40.010 (Full train crews—Passenger—Safety review—Penalty—Enforcement) and 2003 c 53 s 386, 1992 c 102 s 1, & 1961 c 14 s 81.40.010; and

(2) RCW 81.40.035 (Freight train crews) and 1967 c 2 s 2.

NEW SECTION. Sec. 34. A new section is added to chapter 90.56 RCW to read as follows:

(1) The department must provide to the relevant policy and fiscal committees of the senate and house of representatives:

(a) A review of all state geographic response plans and any federal requirements as needed in contingency plans required under RCW 90.56.210 and 88.46.060 by December 31, 2015; and

(b) Annual updates, beginning December 31, 2016, and ending December 31, 2021, as required under RCW 43.01.036, as to the progress made in completing state and federal geographic

response plans as needed in contingency plans required under RCW 90.56.060, 90.56.210, and 88.46.060.

(2) The department must contract, if practicable, with eligible independent third parties to ensure completion by December 1, 2017, of at least fifty percent of the geographic response plans as needed in contingency plans required under RCW 90.56.210 and 88.46.060 for the state.

(3) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

NEW SECTION. Sec. 35. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of ecology shall provide grants to emergency responders to assist with oil spill and hazardous materials response and firefighting equipment and resources needed to meet the requirements of this act.

(2) For the purposes of determining grant allocations, the department of ecology, in consultation with emergency first responders, oil spill response cooperatives, representatives from the oil and rail industries, and businesses that are recipients of liquid bulk crude oil shall: (a) Conduct an evaluation of oil spill and hazardous materials response and firefighting equipment and resources currently available for oil spill and hazardous materials response activities throughout the state; (b) review the local emergency management coordinating efforts for oil spill and hazardous materials response; (c) determine the need for additional, new, or updated equipment and resources; and (d) identify areas or regions of the state that are in greatest need of resources and oil spill and hazardous materials response and firefighting equipment.

(3) The department of ecology, in consultation with emergency first responders, oil spill response cooperatives, representatives from the oil and rail industries, and businesses that are recipients of liquid bulk crude oil shall review grant applications to prioritize grant awards using the evaluation of availability of oil spill and hazardous materials response and firefighting equipment and resources as determined in subsection (2) of this section.

(a) The application review must include evaluation of equipment and resource requests, funding requirements, and coordination with existing equipment and resources in the area.

(b) Funding must be prioritized for applicants from areas where the need for firefighting and oil spill and hazardous materials response equipment is the greatest as determined in subsection (2) of this section.

(c) Grants must be coordinated to maximize currently existing equipment and resources that have been put in place by first responders and industry.

NEW SECTION. Sec. 36. Subject to the availability of amounts appropriated for this specific purpose, the department of ecology and the utilities and transportation commission shall jointly hold a symposium on oil spill prevention and response activities for international transport of liquid bulk crude oil. The department of ecology and the utilities and transportation commission must invite representatives from affected tribes, public interest organizations, local governments, the United States government, Canadian provinces, Canada, and other appropriate stakeholders. The symposium must at a minimum address:

(1) Cooperative prevention and emergency response activities between the shared international and state borders;

(2) Expected risks posed by transport of Canadian crude oil or liquid bulk crude oil throughout the Pacific Northwest region; and

(3) An update of the marine transport of liquid bulk crude oil through the Pacific Northwest region.

NEW SECTION. Sec. 37. Sections 17 through 20 of this act take effect January 1, 2016.

NEW SECTION. Sec. 38. 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. 39. Except for sections 17 through 20 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 July 1, 2015."

Correct the title.

Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle; Cody; Dunshee; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; Pettigrew; Sawyer; Senn; Springer; Sullivan; Tharinger and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Condotta; Dent; Fagan; Haler; Hunt, G.; MacEwen; Magendanz; Stokesbary; Taylor and Van Werven.

Passed to Committee on Rules for second reading.

April 7, 2015

SB 5107

Prime Sponsor, Senator Padden: Encouraging the establishment of therapeutic courts. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** (1) The legislature finds that judges in the trial courts throughout the state effectively utilize what are known as therapeutic courts to remove a defendant's or respondent's case from the criminal and civil court traditional trial track and allow those defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or other issues before the court. Trial courts have proved adept at creative approaches in fashioning a wide variety of therapeutic courts addressing the spectrum of social issues that can contribute to criminal activity and engagement with the child welfare system.

(2) The legislature further finds that by focusing on the specific individual's needs, providing treatment for the issues presented, and ensuring rapid and appropriate accountability for program violations, therapeutic courts may decrease recidivism, improve the safety of the community, and improve the life of the program participant and the lives of the participant's family members by decreasing the severity and frequency of the specific behavior addressed by the therapeutic court.

(3) The legislature recognizes the inherent authority of the judiciary under Article IV, section 1 of the state Constitution to establish therapeutic courts, and the outstanding contribution to the state and local communities made by the establishment of therapeutic courts and desires to provide a general provision in statute acknowledging and encouraging the judiciary to provide for therapeutic court programs to address the particular needs within a given judicial jurisdiction.

(4) Therapeutic court programs may include, but are not limited to:

- (a) Adult drug court;
- (b) Juvenile drug court;
- (c) Family dependency treatment court or family drug court;
- (d) Mental health court, which may include participants with developmental disabilities;
- (e) DUI court;
- (f) Veterans treatment court;
- (g) Truancy court;
- (h) Domestic violence court;
- (i) Gambling court;
- (j) Community court;
- (k) Homeless court;
- (l) Treatment, responsibility, and accountability on campus (Back on TRAC) court.

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

(1) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well-established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in this section.

(2) "Evidence-based" means a program or practice that: (a) Has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome; or (b) may be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(3) "Government authority" means prosecutor or other representative initiating action leading to a proceeding in therapeutic court.

(4) "Participant" means an accused person, offender, or respondent in the judicial proceeding.

(5) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in this subsection but does not meet the full criteria for evidence-based.

(6) "Specialty court" and "therapeutic court" both mean a court utilizing a program or programs structured to achieve both a reduction in recidivism and an increase in the likelihood of rehabilitation, or to reduce child abuse and neglect, out-of-home placements of children, termination of parental rights, and substance abuse and mental health symptoms among parents or guardians and their children through continuous and intense judicially supervised treatment and the appropriate use of services, sanctions, and incentives.

(7) "Therapeutic court personnel" means the staff of a therapeutic court including, but not limited to: Court and clerk personnel with therapeutic court duties, prosecuting attorneys, the attorney general or his or her representatives, defense counsel, monitoring personnel, and others acting within the scope of therapeutic court duties.

(8) "Trial court" means a superior court authorized under Title 2 RCW or a district or municipal court authorized under Title 3 or 35 RCW.

NEW SECTION. Sec. 3. (1) Every trial and juvenile court in the state of Washington is authorized and encouraged to establish and operate therapeutic courts. Therapeutic courts, in conjunction with the government authority and subject matter experts specific to the focus of the therapeutic court, develop and process cases in ways that depart from traditional judicial processes to allow defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or involvement in the child welfare system in exchange for resolution of the case or charges. In criminal cases, the consent of the prosecutor is required.

(2) While a therapeutic court judge retains the discretion to decline to accept a case into the therapeutic court, and while a therapeutic court retains discretion to establish processes and determine eligibility for admission to the therapeutic court process unique to their community and jurisdiction, the effectiveness and credibility of any therapeutic court will be enhanced when the court implements evidence-based practices, research-based practices, emerging best practices, or promising practices that have been identified and accepted at the state and national levels. Promising practices, emerging best practices, and/or research-based programs are authorized where determined by the court to be appropriate. As practices evolve, the trial court shall regularly assess the effectiveness of its program and the methods by which it implements and adopts new best practices.

(3) Except under special findings by the court, the following individuals are not eligible for participation in therapeutic courts:

- (a) Individuals who are currently charged or who have been previously convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030;
- (b) Individuals who are currently charged with an offense alleging intentional discharge, threat to discharge, or attempt to discharge a firearm in furtherance of the offense;
- (c) Individuals who are currently charged with or who have been previously convicted of vehicular homicide or an equivalent out-of-state offense; or
- (d) Individuals who are currently charged with or who have been previously convicted of: An offense alleging substantial bodily harm or great bodily harm as defined in RCW 9A.04.110, or death of another person.

(4) Any jurisdiction establishing a therapeutic court shall endeavor to incorporate the therapeutic court principles of best practices as recognized by state and national therapeutic court organizations in structuring a particular program, which may include:

- (a) Determining the population;
 - (b) Performing a clinical assessment;
 - (c) Developing the treatment plan;
 - (d) Monitoring the participant, including any appropriate testing;
 - (e) Forging agency, organization, and community partnerships;
 - (f) Taking a judicial leadership role;
 - (g) Developing case management strategies;
 - (h) Addressing transportation, housing, and subsistence issues;
 - (i) Evaluating the program;
 - (j) Ensuring a sustainable program.
- (5) Upon a showing of indigence under RCW 10.101.010, fees may be reduced or waived.

(6) The department of social and health services shall furnish services to therapeutic courts addressing dependency matters where substance abuse or mental health are an issue unless the court contracts with providers outside of the department.

(7) Any jurisdiction that has established more than one therapeutic court under this chapter may combine the functions of these courts into a single therapeutic court.

(8) Nothing in this section prohibits a district or municipal court from ordering treatment or other conditions of sentence or probation following a conviction, without the consent of either the prosecutor or defendant.

(9) No therapeutic or specialty court may be established specifically for the purpose of applying foreign law, including foreign criminal, civil, or religious law, that is otherwise not required by treaty.

(10) No therapeutic or specialty court established by court rule shall enforce a foreign law, if doing so would violate a right guaranteed by the Constitution of this state or of the United States.

NEW SECTION. Sec. 4. Jurisdictions may seek federal funding available to support the operation of its therapeutic court and associated services and must match, on a dollar-for-dollar basis, state moneys allocated for therapeutic courts with local cash or in-kind resources. Moneys allocated by the state may be used to supplement, not supplant other federal, state, and local funds for therapeutic courts. However, until June 30, 2016, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a therapeutic court authorized under this chapter.

Sec. 5. RCW 82.14.460 and 2012 c 180 s 1 are each amended to read as follows:

(1)(a) A county legislative authority may authorize, fix, and impose a sales and use tax in accordance with the terms of this chapter.

(b) If a county with a population over eight hundred thousand has not imposed the tax authorized under this subsection by January 1, 2011, any city with a population over thirty thousand located in that county may authorize, fix, and impose the sales and use tax in accordance with the terms of this chapter. The county must provide a credit against its tax for the full amount of tax imposed under this subsection (1)(b) by any city located in that county if the county imposes the tax after January 1, 2011.

(2) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the county for a county's tax and within a city for a city's tax. The rate of tax equals one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(3) Moneys collected under this section must be used solely for the purpose of providing for the operation or delivery of chemical dependency or mental health treatment programs and services and for the operation or delivery of therapeutic court programs and services. For the purposes of this section, "programs and services" includes, but is not limited to, treatment services, case management, transportation, and housing that are a component of a coordinated chemical dependency or mental health treatment program or service. Every county that authorizes the tax provided in this section shall, and every other county may, establish and operate a therapeutic court component for dependency proceedings designed to be effective for the court's size, location, and resources.

(4) All moneys collected under this section must be used solely for the purpose of providing new or expanded programs and services as provided in this section, except as follows:

(a) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, which initially imposed the tax authorized under this section prior to January 1, 2012, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as

follows: Up to fifty percent may be used to supplant existing funding in calendar years 2011-2012; up to forty percent may be used to supplant existing funding in calendar year 2013; up to thirty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016;

(b) For a county with a population larger than twenty-five thousand or a city with a population over thirty thousand, which initially imposes the tax authorized under this section after December 31, 2011, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to fifty percent may be used to supplant existing funding for up to the first three calendar years following adoption; and up to twenty-five percent may be used to supplant existing funding for the fourth and fifth years after adoption;

(c) For a county with a population of less than twenty-five thousand, a portion of moneys collected under this section may be used to supplant existing funding for these purposes as follows: Up to eighty percent may be used to supplant existing funding in calendar years 2011-2012; up to sixty percent may be used to supplant existing funding in calendar year 2013; up to forty percent may be used to supplant existing funding in calendar year 2014; up to twenty percent may be used to supplant existing funding in calendar year 2015; and up to ten percent may be used to supplant existing funding in calendar year 2016; and

(d) Notwithstanding (a) through (c) of this subsection, moneys collected under this section may be used to support the cost of the judicial officer and support staff of a therapeutic court.

(5) Nothing in this section may be interpreted to prohibit the use of moneys collected under this section for the replacement of lapsed federal funding previously provided for the operation or delivery of services and programs as provided in this section.

NEW SECTION. Sec. 6. Individual trial courts are authorized and encouraged to establish multijurisdictional partnerships and/or interlocal agreements under RCW 39.34.180 to enhance and expand the coverage area of the therapeutic court. Specifically, district and municipal courts may work cooperatively with each other and with the superior courts to identify and implement nontraditional case processing methods which can eliminate traditional barriers that decrease judicial efficiency.

NEW SECTION. Sec. 7. Any therapeutic court meeting the definition of therapeutic court in section 2 of this act and existing on the effective date of this section continues to be authorized.

Sec. 8. RCW 9.94A.517 and 2013 2nd sp.s. c 14 s 1 are each amended to read as follows:

(1)

TABLE 3
DRUG OFFENSE SENTENCING GRID

Seriousness Level	Offender Score	Offender Score	Offender Score
	0 to 2	3 to 5	6 to 9 or more
III	51 to 68 months	68 + to 100 months	100 + to 120 months
II	12 + to 20 months	20 + to 60 months	60 + to 120 months
I	0 to 6 months	6 + to 12 months	12 + to 24 months

References to months represent the standard sentence ranges. 12 + equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW 9.94A.660 or drug court under ((RCW 2.28.170)) chapter 2.--- RCW (the new chapter created in section 12 of this act).

(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

Sec. 9. RCW 9.94A.517 and 2002 c 290 s 8 are each amended to read as follows:

(1)

TABLE 3
DRUG OFFENSE SENTENCING GRID

Seriousness Level	Offender Score 0 to 2	Offender Score 3 to 5	Offender Score 6 to 9 or more
III	51 to 68 months	68 + to 100 months	100 + to 120 months
II	12 + to 20 months	20 + to 60 months	60 + to 120 months
I	0 to 6 months	6 + to 18 months	12 + to 24 months

References to months represent the standard sentence ranges. 12 + equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW 9.94A.660 or drug court under ((RCW 2.28.170)) chapter 2.--- RCW (the new chapter created in section 12 of this act).

(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

Sec. 10. RCW 70.96A.350 and 2013 2nd sp.s. c 4 s 990 are each amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance abuse treatment and treatment support services for offenders with an addiction or a substance abuse problem that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of drug and alcohol treatment services and treatment support services for nonviolent offenders within a drug court program; (c) the administrative and overhead costs associated with the operation of a drug court; and (d) during the 2011-2013 biennium, the legislature may appropriate up to three million dollars from the account in order to offset reductions in the state general fund for treatment services provided by counties. This amount is not subject to the requirements of subsections (5) through (9) of this section. During the 2013-2015 fiscal biennium, the legislature may transfer from the criminal justice treatment account to the state general fund amounts as reflect the state savings associated with the implementation of the medicaid expansion of the federal affordable care act. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance abuse treatment program, but does not include the following services: Housing other than that provided as part of an inpatient substance

abuse treatment program, vocational training, and mental health counseling; and

(b) "Treatment support" means transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal biennium beginning July 1, 2003, the state treasurer shall transfer eight million nine hundred fifty thousand dollars from the general fund into the criminal justice treatment account, divided into eight equal quarterly payments. For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the division of alcohol and substance abuse for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the division of alcohol and substance abuse from the criminal justice treatment account shall be distributed as specified in this subsection. The department shall serve as the fiscal agent for purposes of distribution. Until July 1, 2004, the department may not use moneys appropriated from the criminal justice treatment account for administrative expenses and shall distribute all amounts appropriated under subsection (4)(b) of this section in accordance with this subsection. Beginning in July 1, 2004, the department may retain up to three percent of the amount appropriated under subsection (4)(b) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the division from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The division of alcohol and substance abuse, in consultation with the department of corrections, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance abuse treatment providers, and any other person deemed by the division to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the division from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The division shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, substance abuse treatment providers, and the division. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this

subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The funds shall be used solely to provide approved alcohol and substance abuse treatment pursuant to RCW 70.96A.090, treatment support services, and for the administrative and overhead costs associated with the operation of a drug court.

(a) No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent on the administrative and overhead costs associated with the operation of a drug court.

(b) No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) Counties must meet the criteria established in ((~~RCW 2.28.170(3)(b))~~) section 3(3) of this act.

(10) The authority under this section to use funds from the criminal justice treatment account for the administrative and overhead costs associated with the operation of a drug court expires June 30, 2015.

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

(1) RCW 2.28.170 (Drug courts) and 2013 2nd sp.s. c 4 s 952, 2013 2nd sp.s. c 4 s 951, 2013 c 257 s 5, 2009 c 445 s 2, 2006 c 339 s 106, 2005 c 504 s 504, 2002 c 290 s 13, & 1999 c 197 s 9;

(2) RCW 2.28.175 (DUI courts) and 2013 2nd sp.s. c 35 s 2, 2013 c 257 s 6, 2012 c 183 s 1, & 2011 c 293 s 10;

(3) RCW 2.28.180 (Mental health courts) and 2013 c 257 s 7, 2011 c 236 s 1, & 2005 c 504 s 501;

(4) RCW 2.28.190 (DUI court, drug court, and mental health court may be combined) and 2013 c 257 s 8, 2011 c 293 s 11, & 2005 c 504 s 502;

(5) RCW 13.40.700 (Juvenile gang courts—Minimum requirements— Admission—Individualized plan—Completion) and 2012 c 146 s 2;

(6) RCW 13.40.710 (Juvenile gang courts—Data—Reports) and 2012 c 146 s 3;

(7) RCW 26.12.250 (Therapeutic courts) and 2005 c 504 s 503;

(8) RCW 2.28.165 (Specialty and therapeutic courts— Establishment— Principles of best practices—Limitations) and 2013 c 257 s 2; and

(9) RCW 2.28.166 (Definition of "specialty court" and "therapeutic court") and 2013 c 257 s 4.

NEW SECTION. Sec. 12. Sections 1 through 4, 6, and 7 of this act constitute a new chapter in Title 2 RCW.

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

NEW SECTION. Sec. 15. Section 8 of this act expires July 1, 2018.

NEW SECTION. Sec. 16. Section 9 of this act takes effect July 1, 2018."

Correct the title.

Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representative Chandler, Ranking Minority Member.

Passed to Committee on Rules for second reading.

April 7, 2015

SB 5121 Prime Sponsor, Senator Kohl-Welles:
Establishing a marijuana research license.
Reported by Committee on Appropriations

MAJORITY recommendation: Do pass without amendment by Committee on Commerce & Gaming. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger; Van Werven and Walkinshaw.

Passed to Committee on Rules for second reading.

April 7, 2015

E2SSB 5177 Prime Sponsor, Committee on Ways & Means:
Improving timeliness of competency evaluation and restoration services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Judiciary. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member;

Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

E2SSB 5179 Prime Sponsor, Committee on Ways & Means: Concerning paraeducators. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Education. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta; Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

E2SSB 5269 Prime Sponsor, Committee on Ways & Means: Concerning court review of detention decisions under the involuntary treatment act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Judiciary.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. This act may be known and cited as Joel's Law.

NEW SECTION. Sec. 2. A new section is added to chapter 71.05 RCW to read as follows:

(1) If a designated mental health professional decides not to detain a person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since a designated mental health professional received a request for investigation and the designated mental health professional has not taken action to have the person detained, an immediate family member or guardian or conservator of the person may petition the superior court for the person's initial detention.

(2)(a) The petition must be submitted on forms developed by the administrative office of the courts for this purpose. The petition must be accompanied by a sworn declaration from the petitioner, and other witnesses if desired, describing why the person should be detained for evaluation and treatment. The description of why the person should be detained may contain, but is not limited to, the information identified in RCW 71.05.212.

(b) The petition must contain:

(i) A description of the relationship between the petitioner and the person; and

(ii) The date on which an investigation was requested from the designated mental health professional.

(3) The court shall, within one judicial day, review the petition to determine whether the petition raises sufficient evidence to support the allegation. If the court so finds, it shall provide a copy of the petition to the designated mental health professional agency with an order for the agency to provide the court, within one judicial day, with a written sworn statement describing the basis for the decision not to seek initial detention and a copy of all information collected during the investigation.

(4) Following the filing of the petition and before the court reaches a decision, any person, including a mental health professional, may submit a sworn declaration to the court in support of or in opposition to initial detention.

(5) The court shall dismiss the petition at any time if it finds that a designated mental health professional has filed a petition for the person's initial detention under RCW 71.05.150 or 71.05.153 or that the person has voluntarily accepted appropriate treatment.

(6) The court must issue a final ruling on the petition within five judicial days after it is filed. After reviewing all of the information provided to the court, the court may enter an order for initial detention if the court finds that: (a) There is probable cause to support a petition for detention; and (b) the person has refused or failed to accept appropriate evaluation and treatment voluntarily. The court shall transmit its final decision to the petitioner.

(7) If the court enters an order for initial detention, it shall provide the order to the designated mental health professional agency, which shall execute the order without delay. An order for initial detention under this section expires one hundred eighty days from issuance.

(8) Except as otherwise expressly stated in this chapter, all procedures must be followed as if the order had been entered under RCW 71.05.150. RCW 71.05.160 does not apply if detention was initiated under the process set forth in this section.

(9) For purposes of this section, "immediate family member" means a spouse, domestic partner, child, stepchild, parent, stepparent, grandparent, or sibling.

NEW SECTION. Sec. 3. A new section is added to chapter 71.05 RCW to read as follows:

(1) The department and each regional support network or agency employing designated mental health professionals shall publish information in an easily accessible format describing the process for an immediate family member, guardian, or conservator to petition for court review of a detention decision under section 2 of this act.

(2) A designated mental health professional or designated mental health professional agency that receives a request for investigation for possible detention under this chapter must inquire whether the request comes from an immediate family member, guardian, or conservator who would be eligible to petition under section 2 of this act. If the designated mental health professional decides not to detain the person for evaluation and treatment under RCW 71.05.150 or 71.05.153 or forty-eight hours have elapsed since the request for investigation was received and the designated mental health professional has not taken action to have the person detained, the designated mental health professional or designated mental health professional agency must inform the immediate family member, guardian, or conservator who made the request for investigation about the process to petition for court review under section 2 of this act.

Sec. 4. RCW 71.05.130 and 1998 c 297 s 7 are each amended to read as follows:

In any judicial proceeding for involuntary commitment or detention except under section 2 of this act, or in any proceeding challenging ~~((such))~~ involuntary commitment or detention, the

prosecuting attorney for the county in which the proceeding was initiated shall represent the individuals or agencies petitioning for commitment or detention and shall defend all challenges to such commitment or detention ~~((PROVIDED))~~, except that the attorney general shall represent and provide legal services and advice to state hospitals or institutions with regard to all provisions of and proceedings under this chapter ~~((except in))~~ other than proceedings initiated by such hospitals and institutions seeking fourteen day detention."

Correct the title.

Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

2SSB 5311 Prime Sponsor, Committee on Ways & Means: Requiring crisis intervention training for peace officers. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta; Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

2SSB 5404 Prime Sponsor, Committee on Ways & Means: Concerning homeless youth prevention and protection. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle; Cody; Dunshee; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; Pettigrew; Sawyer; Senn; Springer; Sullivan; Tharinger and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Condotta; Dent; Fagan; Haler; Hunt, G.; MacEwen; Magendanz; Stokesbary; Taylor and Van Werven.

Passed to Committee on Rules for second reading.

April 7, 2015

E2SSB 5452 Prime Sponsor, Committee on Ways & Means: Improving quality in the early care and education system. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Early Learning & Human Services.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. INTENT. (1) The legislature finds that quality early care and education builds the foundation for a child's success in school and in life. The legislature acknowledges that a quality framework is necessary for the early care and education system in Washington. The legislature recognizes that empirical evidence supports the conclusion that high quality programs consistently yield more positive outcomes for children, with the strongest positive impacts on the most vulnerable children. The legislature acknowledges that critical developmental windows exist in early childhood, and low quality child care has damaging effects for children. The legislature further understands that the proper dosage, duration of programming, and stability of care are critical to enhancing program quality and improving child outcomes. The legislature acknowledges that the early care and education system should strive to address the needs of Washington's culturally and linguistically diverse populations. The legislature understands that parental choice and provider diversity are guiding principles for early learning programs.

(2) The legislature intends to prioritize the integration of child care and preschool in an effort to promote full day programming. The legislature further intends to reward quality and create incentives for providers to participate in a quality rating and improvement system that will also provide valuable information to parents regarding the quality of care available in their communities.

Sec. 2. RCW 43.215.100 and 2013 c 323 s 6 are each amended to read as follows:

EARLY ACHIEVERS, QUALITY RATING, AND IMPROVEMENT SYSTEM.

(1) ~~((Subject to the availability of amounts appropriated for this specific purpose.))~~ The department, in collaboration with tribal governments and community and statewide partners, shall implement a ~~((voluntary))~~ quality rating and improvement system, called the early achievers program ~~((that)).~~ The early achievers program provides a foundation of quality for the early care and education system. The early achievers program is applicable to licensed or certified child care centers and homes and early ~~((education))~~ learning programs such as working connections child care and early childhood education and assistance programs.

(2) The ~~((purpose))~~ objectives of the early achievers program ~~((is))~~ are to:

(a) ~~((To))~~ Improve short-term and long-term educational outcomes for children as measured by assessments including, but not limited to, the Washington kindergarten inventory of developing skills in RCW 28A.655.080;

(b) Give parents clear and easily accessible information about the quality of child care and early education programs ~~((;));~~

(c) Support improvement in early learning and child care programs throughout the state ~~((;));~~

(d) Increase the readiness of children for school ~~((and));~~

(e) Close the ~~((disparity))~~ disparities in access to quality care;

(f) Provide professional development and coaching opportunities to early child care and education providers; and ~~((to))~~

(g) Establish a common set of expectations and standards that define, measure, and improve the quality of early learning and child care settings.

(3)(a) Licensed or certified child care centers and homes serving nonschool age children and receiving state subsidy payments must participate in the early achievers program by the required deadlines established in RCW 43.215.135.

(b) Approved early childhood education and assistance program providers receiving state-funded support must participate in the early achievers program by the required deadlines established in RCW 43.215.415.

(c) Participation in the early achievers program is voluntary for:

(i) Licensed or certified child care centers and homes not receiving state subsidy payments; and

(ii) Early learning programs not receiving state funds.

(d) School age child care providers are exempt from participating in the early achievers program. By July 1, 2017, the department and the office of the superintendent of public instruction shall jointly design a plan to incorporate school age child care providers into the early achievers program or other appropriate quality improvement system. To test implementation of the early achievers system for school age child care providers the department and the office of the superintendent of public instruction shall implement a pilot program.

(4) ~~((By fiscal year 2015, Washington state preschool programs receiving state funds must enroll in the early achievers program and maintain a minimum score level.~~

~~(5) Before final implementation of the early achievers program, the department shall report on program progress, as defined within the race to the top federal grant award, and expenditures to the appropriate policy and fiscal committees of the legislature.) There are five levels in the early achievers program. Participants are expected to actively engage and continually advance within the program.~~

(5) The department has the authority to determine the rating cycle for the early achievers program. The department shall streamline and eliminate duplication between early achievers standards and state child care rules in order to reduce costs associated with the early achievers rating cycle and child care licensing.

(a) Early achievers program participants may request to be rated at any time after the completion of all level 2 activities.

(b) The department shall provide an early achievers program participant an update on the participant's progress toward completing level 2 activities after the participant has been enrolled in the early achievers program for fifteen months.

(c) The first rating is free for early achievers program participants.

(d) Each subsequent rating within the established rating cycle is free for early achievers program participants.

(6)(a) Early achievers program participants may request to be rerated outside the established rating cycle.

(b) The department may charge a fee for optional rerating requests made by program participants that are outside the established rating cycle.

(c) Fees charged are based on, but may not exceed, the cost to the department for activities associated with the early achievers program.

(7)(a) The department must create a single source of information for parents and caregivers to access details on a provider's early achievers program rating level, licensing history, and other indicators of quality and safety that will help parents and caregivers make informed choices.

(b) The department shall publish to the department's web site, or offer a link on its web site to, the following information:

(i) By August 1, 2015, early achievers program rating levels 1 through 5 for all child care programs that receive state subsidy, early childhood education and assistance programs, and federal head start programs in Washington; and

(ii) New early achievers program ratings within thirty days after a program becomes licensed or certified, or receives a rating.

(c) The early achievers program rating levels shall be published in a manner that is easily accessible to parents and caregivers and takes into account the linguistic needs of parents and caregivers.

(d) The department must publish early achievers program rating levels for child care programs that do not receive state subsidy but have voluntarily joined the early achievers program.

(e) Early achievers program participants who have published rating levels on the department's web site or on a link on the department's web site may include a brief description of their program, contingent upon the review and approval by the department, as determined by established marketing standards.

(8)(a) The department shall create a professional development pathway for early achievers program participants to obtain a high school diploma or equivalency or higher education credential in early childhood education, early childhood studies, child development, or an academic field related to early care and education.

(b) The professional development pathway must include opportunities for scholarships and grants to assist early achievers program participants with the costs associated with obtaining an educational degree.

(c) The department shall address cultural and linguistic diversity when developing the professional development pathway.

(9) The early achievers quality improvement awards shall be reserved for participants offering programs to an enrollment population consisting of at least five percent of children receiving a state subsidy.

(10) In collaboration with tribal governments, community and statewide partners, and the early achievers review subcommittee created in RCW 43.215.090, the department shall develop a protocol for granting early achievers program participants an extension in meeting rating level requirement timelines outlined for the working connections child care program and the early childhood education and assistance program.

(a) The department may grant extensions only under exceptional circumstances, such as when early achievers program participants experience an unexpected life circumstance.

(b) Extensions shall not exceed six months, and early achievers program participants are only eligible for one extension in meeting rating level requirement timelines.

(c) Extensions may only be granted to early achievers program participants who have demonstrated engagement in the early achievers program.

(11)(a) The department shall accept national accreditation that meets the requirements of this subsection (11) as a qualification for the early achievers program ratings.

(b) Each national accreditation agency will be allowed to submit its most current standards of accreditation to establish potential credit earned in the early achievers program. The department shall grant credit to accreditation bodies that can demonstrate that their standards meet or exceed the current early achievers program standards.

(c) Licensed child care centers and child care home providers must meet national accreditation standards approved by the department for the early achievers program in order to be granted credit for the early achievers program standards. Eligibility for the early achievers program is not subject to bargaining, mediation, or interest arbitration under RCW 41.56.028, consistent with the legislative reservation of rights under RCW 41.56.028(4)(d).

(12) A child care or early learning program that is operated by a federally recognized tribe and receives state funds shall participate in the early achievers program. The tribe may choose to participate through an interlocal agreement between the tribe and the department. The interlocal agreement must reflect the government-to-government relationship between the state and the tribe, including recognition of tribal sovereignty. The interlocal agreement must provide that:

(a) Tribal child care facilities and early learning programs may volunteer, but are not required, to be licensed by the department;

(b) Tribal child care facilities and early learning programs are not required to have their early achievers program rating level published to the department's web site or through a link on the department's web site; and

(c) Tribal child care facilities and early learning programs must provide notification to parents or guardians who apply for or have been admitted into their program that early achievers program rating level information is available and provide the parents or guardians with the program's early achievers program rating level upon request.

(13) The department shall consult with the early achievers review subcommittee on all substantial policy changes to the early achievers program.

(14) Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects or limits the legislature's authority to make programmatic modifications to licensed child care and early learning programs under RCW 41.56.028(4)(d).

NEW SECTION. Sec. 3. A new section is added to chapter 43.215 RCW to read as follows:

SINGLE SET OF LICENSING STANDARDS.

(1)(a) No later than July 1, 2016, the department shall implement a single set of licensing standards for child care and the early childhood education and assistance program. The department shall produce the single set of licensing standards within the department's available appropriations. The new licensing standards must:

(i) Provide minimum health and safety standards for child care and preschool programs;

(ii) Rely on the standards established in the early achievers program to address quality issues in participating early childhood programs;

(iii) Take into account the separate needs of family care providers and child care centers; and

(iv) Promote the continued safety of child care settings.

(b) By July 1, 2016, private schools that operate early learning programs and do not receive state subsidy payments shall be subject only to the minimum health and safety standards in subsection (1)(a)(i) of this section and the requirements necessary to assure a sufficient early childhood education to meet usual requirements needed for transition into elementary school. The state, and any agency thereof, shall not restrict or dictate any specific educational or other programs for early learning programs operated by private schools except for programs that receive state subsidy payments.

Sec. 4. RCW 43.215.200 and 2011 c 359 s 2 and 2011 c 253 s 3 are each reenacted and amended to read as follows:

DIRECTOR'S LICENSING DUTIES.

It shall be the director's duty with regard to licensing:

(1) In consultation and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of child care facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages and other characteristics of the children served, variations in the purposes and services

offered or size or structure of the agencies to be licensed, or because of any other factor relevant thereto;

(2) In consultation with the state fire marshal's office, the director shall use an interagency process to address health and safety requirements for child care programs that serve school-age children and are operated in buildings that contain public or private schools that safely serve children during times in which school is in session. For child care programs serving only school-age children and operating in the same facilities used by public or private schools, the director shall not impose additional health and safety licensing requirements related to the physical facility beyond the health and safety standards established by the state board of health for primary and secondary schools pursuant to its authority in RCW 43.20.050;

(3) In consultation and with the advice and assistance of parents or guardians, and persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter;

(4) In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure, and other persons having unsupervised access to children in care;

(5) To satisfy the shared background check requirements provided for in RCW 43.215.215 and 43.20A.710, the department of early learning and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may share the federal background check results with any other state agency or person;

(6) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of care that an agency is authorized to render and the ages and number of children to be served;

(7) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;

(8) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;

(9) To review requirements adopted under this chapter at least every two years and to adopt appropriate changes after consultation with affected groups for child day care requirements; and

(10) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children.

NEW SECTION. Sec. 5. A new section is added to chapter 43.215 RCW to read as follows:

REDUCTION OF BARRIERS—LOW-INCOME PROVIDERS AND PROGRAMS—EARLY ACHIEVERS.

(1)(a) The department shall, in collaboration with tribal governments and community and statewide partners, implement a protocol to maximize and encourage participation in the early achievers program for culturally diverse and low-income center and family home child care providers. Amounts appropriated for the encouragement of culturally diverse and low-income center and family home child care provider participation shall be appropriated separately from the other funds appropriated for the department, are the only funds that may be used for the protocol, and may not be used for any other purposes. Funds appropriated for the protocol shall be considered an ongoing program for purposes of future departmental budget requests.

(b) During the first thirty months of implementation of the early achievers program the department shall prioritize the resources authorized in this section to assist providers rating at a level 2 in the early achievers program to help them reach a level 3 rating wherever access to subsidized care is at risk.

(2) The protocol should address barriers to early achievers program participation and include at a minimum the following:

(a) The creation of a substitute pool;

(b) The development of needs-based grants for providers at level 2 in the early achievers program to assist with purchasing curriculum development, instructional materials, supplies, and equipment to improve program quality. Priority for the needs-based grants shall be given to culturally diverse and low-income providers;

(c) The development of materials and assessments in a timely manner, and to the extent feasible, in the provider and family home languages; and

(d) The development of flexibility in technical assistance and coaching structures to provide differentiated types and amounts of support to providers based on individual need and cultural context.

Sec. 6. RCW 43.215.135 and 2013 c 323 s 9 are each amended to read as follows:

WORKING CONNECTIONS CHILD CARE.

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. These policies shall focus on supporting school readiness for young learners. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures defined in RCW 74.08A.410 and the standards established in this section intended to promote ~~((continuity of care for children))~~ stability, quality, and continuity of early care and education programming.

(2) ~~((Beginning in fiscal year 2013,))~~ As recommended by Public Law 113-186, authorizations for the working connections child care subsidy shall be effective for twelve months ~~((unless a change in circumstances necessitates reauthorization sooner than twelve months. The twelve month certification applies only if the enrollments in the child care subsidy or working connections child care program are capped.~~

~~((3) Subject to the availability of amounts appropriated for this specific purpose, beginning September 1, 2013, working connections child care providers shall receive a five percent increase in the subsidy rate for enrolling in level 2 in the early achievers programs. Providers must complete level 2 and advance to level 3 within thirty months in order to maintain this increase))~~ beginning January 1, 2016.

(3) Existing child care providers serving nonschool age children and receiving state subsidy payments must complete the following requirements to be eligible for a state subsidy under this section:

(a) Enroll in the early achievers program by August 1, 2016;

(b) Complete level 2 activities in the early achievers program by August 1, 2017; and

(c) Rate at a level 3 or higher in the early achievers program by December 31, 2019. If a child care provider rates below a level 3 by December 31, 2019, the provider must complete remedial activities with the department, and rate at a level 3 or higher no later than June 30, 2020.

(4) Effective July 1, 2016, a new child care provider serving nonschool age children and receiving state subsidy payments must complete the following activities to be eligible to receive a state subsidy under this section:

(a) Enroll in the early achievers program within thirty days of receiving the initial state subsidy payment;

(b) Complete level 2 activities in the early achievers program within twelve months of enrollment; and

(c) Rate at a level 3 or higher in the early achievers program within thirty months of enrollment. If a child care provider rates below a level 3 within thirty months from enrollment into the early achievers program, the provider must complete remedial activities with the department, and rate at a level 3 or higher within six months of beginning remedial activities.

(5) If a child care provider does not rate at a level 3 or higher following the remedial period, the provider is no longer eligible to receive state subsidy under this section.

(6) If a child care provider serving nonschool age children and receiving state subsidy payments has successfully completed all level 2 activities and is waiting to be rated by the deadline provided in this section, the provider may continue to receive a state subsidy pending the successful completion of the level 3 rating activity.

(7) The department shall implement tiered reimbursement for early achievers program participants in the working connections child care program rating at level 3, 4, or 5.

(8) The department shall account for a child care copayment collected by the provider from the family for each contracted slot and establish the copayment fee by rule.

Sec. 7. RCW 43.215.1352 and 2012 c 251 s 2 are each amended to read as follows:

WORKING CONNECTIONS CHILD CARE.

When an applicant or recipient applies for or receives working connections child care benefits, ~~((he or she))~~ the applicant or recipient is required to ~~((:~~

~~((4))~~ notify the department of social and health services, within five days, of any change in providers~~((; and~~

~~((2) Notify the department of social and health services, within ten days, about any significant change related to the number of child care hours the applicant or recipient needs, cost sharing, or eligibility)).~~

Sec. 8. RCW 43.215.425 and 1994 c 166 s 6 are each amended to read as follows:

EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM.

(1) The department shall adopt rules under chapter 34.05 RCW for the administration of the early childhood education and assistance program. Approved early childhood education and assistance programs shall conduct needs assessments of their service area~~((;))~~ and identify any targeted groups of children, to include but not be limited to children of seasonal and migrant farmworkers and native American populations living either on or off reservation~~((; and))~~ Approved early childhood education and assistance programs shall provide to the department a service delivery plan, to the extent practicable, that addresses these targeted populations.

(2) The department, in developing rules for the early childhood education and assistance program, shall consult with the early learning advisory ~~((committee))~~ council, and shall consider such factors as coordination with existing head start and other early childhood programs, the preparation necessary for instructors, qualifications of instructors, adequate space and equipment, and special transportation needs. The rules shall specifically require the early childhood programs to provide for parental involvement in participation with their child's program, in local program policy decisions, in development and revision of service delivery systems, and in parent education and training.

(3)(a) The department shall adopt rules pertaining to the early childhood education and assistance program that outline allowable periods of child absences, required contact with parents or caregivers to discuss child absences and encourage regular attendance, and a de-enrollment procedure when allowable child

absences are exceeded. The department shall adopt rules on child absences and attendance within the department's appropriations.

(b) Rules pertaining to child absences and de-enrollment procedures shall be adopted no later than July 31, 2016. The department shall adopt rules on child absences and attendance within the department's appropriations.

(4) The department shall adopt rules requiring early childhood education and assistance program employees who have access to children to submit to a fingerprint background check. Fingerprint background check procedures for the early childhood education and assistance program shall be the same as the background check procedures in RCW 43.215.215.

Sec. 9. RCW 43.215.415 and 1994 c 166 s 5 are each amended to read as follows:

EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM.

(1) Approved early childhood education and assistance programs shall receive state-funded support through the department. Public or private ((nonsectarian)) organizations((?)) including, but not limited to, school districts, educational service districts, community and technical colleges, local governments, or nonprofit organizations, are eligible to participate as providers of the state early childhood education and assistance program. ((Funds appropriated for the state program shall be used to continue to operate existing programs or to establish new or expanded early childhood programs, and shall not be used to supplant federally supported head start programs.))

(2) Funds obtained by providers through voluntary grants or contributions from individuals, agencies, corporations, or organizations may be used to expand or enhance preschool programs so long as program standards established by the department are maintained((, but shall not be used to supplant federally supported head start programs or state supported early childhood programs)).

(3) Persons applying to conduct the early childhood education and assistance program shall identify targeted groups and the number of children to be served, program components, the qualifications of instructional and special staff, the source and amount of grants or contributions from sources other than state funds, facilities and equipment support, and transportation and personal care arrangements.

(4) Existing early childhood education and assistance program providers must complete the following requirements to be eligible to receive state-funded support under the early childhood education and assistance program:

(a) Enroll in the early achievers program by August 1, 2015;

(b) Rate at a level 4 or 5 in the early achievers program by January 1, 2016. If an early childhood education and assistance program provider rates below a level 4 by January 1, 2016, the provider must complete remedial activities with the department, and rate at a level 4 or 5 within six months of beginning remedial activities.

(5) Effective August 1, 2015, a new early childhood education and assistance program provider must complete the requirements in this subsection (5) to be eligible to receive state-funded support under the early childhood education and assistance program:

(a) Enroll in the early achievers program within thirty days of the start date of the early childhood education and assistance program contract;

(b)(i) Except as provided in (b)(ii) of this subsection, rate at a level 4 or 5 in the early achievers program within twelve months of enrollment. If an early childhood education and assistance program provider rates below a level 4 within twelve months of enrollment, the provider must complete remedial activities with the department, and rate at a level 4 or 5 within six months of beginning remedial activities.

(ii) Licensed or certified child care centers and homes that administer an early childhood education and assistance program shall rate at a level 4 or 5 in the early achievers program within eighteen months of the start date of the early childhood education and assistance program contract. If an early childhood education and assistance program provider rates below a level 4 within eighteen months, the provider must complete remedial activities with the department, and rate at a level 4 or 5 within six months of beginning remedial activities.

(6)(a) If an early childhood education and assistance program provider has successfully completed all of the required early achievers program activities and is waiting to be rated by the deadline provided in this section, the provider may continue to participate in the early achievers program as an approved early childhood education and assistance program provider and receive state subsidy pending the successful completion of a level 4 or 5 rating.

(b) To avoid disruption, the department may allow for early childhood education and assistance program providers who have rated below a level 4 after completion of the six-month remedial period to continue to provide services until the current school year is finished.

(7) The department shall collect data periodically to determine the demand for full-day programming for early childhood education and assistance program providers. The department shall analyze this demand by geographic region and shall include the findings in the annual report required under section 17(5) of this act.

(8) By December 1, 2015, the department shall develop a pathway for licensed or certified child care centers and homes to administer an early childhood education and assistance program. The pathway shall include an accommodation for these providers to rate at a level 4 or 5 in the early achievers program according to the timelines and standards established in subsection (5)(b)(ii) of this section.

Sec. 10. RCW 43.215.430 and 2013 c 323 s 7 are each amended to read as follows:

EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM.

The department shall review applications from public or private ((nonsectarian)) organizations for state funding of early childhood education and assistance programs. The department shall consider local community needs, demonstrated capacity, and the need to support a mixed delivery system of early learning that includes alternative models for delivery including licensed centers and licensed family child care providers when reviewing applications.

Sec. 11. RCW 43.215.455 and 2010 c 231 s 3 are each amended to read as follows:

EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM.

(1) Beginning September 1, 2011, an early learning program to provide voluntary preschool opportunities for children three and four years of age shall be implemented according to the funding and implementation plan in RCW ((43.215.142)) 43.215.456. The program must ((be)) offer a comprehensive program ((providing)) of early childhood education and family support, ((options for)) including parental involvement((?)) and health information, screening, and referral services, ((as)) based on family need ((is determined)). Participation in the program is voluntary. On a space available basis, the program may allow enrollment of children who are not otherwise eligible by assessing a fee.

(2) The ((first phase of the)) program shall be implemented by utilizing the program standards and eligibility criteria in the early childhood education and assistance program in RCW 43.215.400 through 43.215.450.

(3)(a) Beginning in the 2015-16 school year, the program implementation in this section shall prioritize early childhood education and assistance programs located in low-income neighborhoods within high-need geographical areas.

(b) Following the priority in (a) of this subsection, preference shall be given to programs meeting at least one of the following characteristics:

(i) Programs offering an extended day program for early care and education;

(ii) Programs offering services to children diagnosed with a special need; or

(iii) Programs offering services to children involved in the child welfare system.

(4) The director shall adopt rules for the following program components, as appropriate and necessary during the phased implementation of the program, consistent with early achievers program standards established in RCW 43.215.100:

(a) Minimum program standards ~~((including lead teacher, assistant teacher, and staff qualifications));~~

(b) Approval of program providers; and

(c) Accountability and adherence to performance standards.

~~((4))~~ (5) The department has administrative responsibility for:

(a) Approving and contracting with providers according to rules developed by the director under this section;

(b) In partnership with school districts, monitoring program quality and assuring the program is responsive to the needs of eligible children;

(c) Assuring that program providers work cooperatively with school districts to coordinate the transition from preschool to kindergarten so that children and their families are well-prepared and supported; and

(d) Providing technical assistance to contracted providers.

NEW SECTION. Sec. 12. A new section is added to chapter 43.215 RCW to read as follows:

PROGRAM DATA COLLECTION AND EVALUATION.

(1) The education data center established in RCW 43.41.400 must collect longitudinal, student-level data on all children attending an early childhood education and assistance program. Upon completion of an electronic time and attendance record system, the education data center must collect longitudinal, student-level data on all children attending a working connections child care program. Data collected should capture at a minimum the following characteristics:

(a) Daily program attendance;

(b) Identification of classroom and teacher;

(c) Early achievers program quality level rating;

(d) Program hours;

(e) Program duration;

(f) Developmental results from the Washington kindergarten inventory of developing skills in RCW 28A.655.080; and

(g) To the extent data is available, the distinct ethnic categories within racial subgroups of children and providers that align with categories recognized by the education data center.

(2) The department shall provide early learning providers student-level data collected pursuant to this section that are specific to the early learning provider's program. Upon completion of an electronic time and attendance record system identified in subsection (1) of this section, the department shall provide child care providers student-level data that are specific to the child care provider's program.

(3)(a) The department shall review available research and best practices literature on cultural competency in early learning settings. The department shall review the K-12 components for cultural competency developed by the professional educator

standards board and identify components appropriate for early learning professional development.

(b) By July 31, 2016, the department shall provide recommendations to the appropriate committees of the legislature and the early learning advisory council on research-based cultural competency standards for early learning professional training.

(4)(a) The Washington state institute for public policy shall conduct a longitudinal analysis examining relationships between the early achievers program quality ratings levels and outcomes for children participating in subsidized early care and education programs.

(b) The institute shall submit the first report to the appropriate committees of the legislature and the early learning advisory council by December 31, 2019. The institute shall submit subsequent reports annually to the appropriate committees of the legislature and the early learning advisory council by December 31st, with the final report due December 31, 2022. The final report shall include a cost-benefit analysis.

(5)(a) The department shall complete an annual early learning program implementation report on the early childhood education and assistance program and the working connections child care program.

(b) The early learning program implementation report must be posted annually on the department's web site and delivered to the appropriate committees of the legislature. The first report is due by December 31, 2015, and the final report is due by December 31, 2019.

(c) The early learning program implementation report must address the following:

(i) Progress on early childhood education and assistance program implementation as required pursuant to RCW 43.215.415, 43.215.425, and 43.215.455;

(ii) An examination of the regional distribution of new preschool programming by zip code;

(iii) An analysis of the impact of preschool expansion on low-income neighborhoods and communities;

(iv) Recommendations to address any identified barriers to access to quality preschool for children living in low-income neighborhoods;

(v) An analysis of any impact from quality strengthening efforts on the availability and quality of infant and toddler care;

(vi) An analysis of any impact of extended day early care and education opportunities directives;

(vii) An examination of any identified barriers for providers to offer extended day early care and education opportunities;

(viii) The number of contracted slots that use both early childhood education and assistance program funding and working connections child care program funding;

(ix) An analysis of the demand for full-day programming for early childhood education and assistance program providers required under RCW 43.215.415; and

(x) To the extent data is available, an analysis of the cultural diversity of early childhood education and assistance program providers and participants.

(6) The first annual report due under subsection (5) of this section also shall include a description of the early achievers program extension protocol required under RCW 43.215.100.

NEW SECTION. Sec. 13. A new section is added to chapter 43.215 RCW to read as follows:

CONTRACTED CHILD CARE SLOTS AND VOUCHERS.

(1) The department may employ a combination of vouchers and contracted slots for the subsidized child care programs in RCW 43.215.135. Child care vouchers preserve parental choice. Child care contracted slots promote access to continuous quality care for children, provide parents and caregivers stable child care that supports employment, and allow providers to have predictable

funding. Any contracted slots the department may create under this section must meet the requirements in subsections (2) through (7) of this section.

(2) Only child care providers who participate in the early achievers program and rate at a level 3, 4, or 5 are eligible to be awarded a contracted slot.

(3)(a) The department is required to use data to calculate a set number of targeted contracted slots. In calculating the number, the department must take into account a balance of family home and center child care programs and the overall geographic distribution of child care programs in the state and the distribution of slots between ages zero and five.

(b) The targeted contracted slots are reserved for programs meeting both of the following conditions:

(i) Programs in low-income neighborhoods; and

(ii) Programs that consist of at least fifty percent of children receiving subsidy pursuant to RCW 43.215.135.

(c) Until August 1, 2017, the department shall assure an even distribution of contracted slots for children birth to age five.

(4) The department shall award the remaining contracted slots via a competitive process and prioritize child care programs with at least one of the following characteristics:

(a) Programs located in a high-need geographic area;

(b) Programs partnering with elementary schools to offer transitional planning and support to children as they advance to kindergarten;

(c) Programs serving children involved in the child welfare system; or

(d) Programs serving children diagnosed with a special need.

(5)(a) The department shall adopt rules pertaining to the working connections child care program for both contracted slots and child care vouchers that outline the following:

(i) Allowable periods of child absences;

(ii) Required contact with parents or caregivers to discuss child absences and encourage regular program attendance; and

(iii) A de-enrollment procedure when allowable child absences are exceeded.

(b) Rules pertaining to child absences and de-enrollment procedures shall be adopted no later than July 31, 2016. The department shall adopt rules on child absences and attendance within the department's appropriations.

(6) The department shall pay a provider for each contracted slot, unless a contracted slot is not used for thirty days.

(7) The department shall include the number of contracted slots that use both early childhood education and assistance program funding and working connections child care program funding in the annual report to the legislature required under section 17 of this act.

NEW SECTION. Sec. 14. A new section is added to chapter 43.215 RCW to read as follows:

INTEGRATION WITH LOCAL GOVERNMENT EFFORTS.

(1) The foundation of quality in the early care and education system in Washington is the quality rating and improvement system entitled the early achievers program. In an effort to build on the existing quality framework, enhance access to quality care for children, and strengthen the entire early care and education systems in the state, it is important to integrate the efforts of state and local governments.

(2) Local governments are encouraged to collaborate with the department when establishing early learning programs for residents.

(3) Local governments may contribute funds to the department for the following purposes:

(a) Initial investments to build capacity and quality in local early care and education programming; and

(b) Reductions in copayments charged to parents or caregivers.

(4) Funds contributed to the department by local governments must be deposited in the early start account established in section 16 of this act.

Sec. 15. RCW 43.215.090 and 2012 c 229 s 589 are each amended to read as follows:

EARLY LEARNING ADVISORY COUNCIL.

(1) The early learning advisory council is established to advise the department on statewide early learning issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Councilmembers shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the student achievement council, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint seven leaders in early childhood education, with at least one representative with experience or expertise in one or more of the areas such as the following: The K-12 system, family day care providers, and child care centers with four of the seven governor's appointees made as follows:

(i) The head start state collaboration office director or the director's designee;

(ii) A representative of a head start, early head start, migrant/seasonal head start, or tribal head start program;

(iii) A representative of a local education agency; and

(iv) A representative of the state agency responsible for programs under section 619 or part C of the federal individuals with disabilities education act;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory group, to be appointed by the governor;

(f) One representative of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter 234, Laws of 2010.

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(9)(a) The council shall convene an early achievers review subcommittee to provide feedback and guidance on strategies to improve the quality of instruction and environment for early learning and provide input and recommendations on the implementation and refinement of the early achievers program. The review conducted by the subcommittee shall be a part of the annual progress report required in section 17 of this act. At a minimum the review shall address the following:

(i) Adequacy of data collection procedures;

(ii) Coaching and technical assistance standards;

(iii) Progress in reducing barriers to participation for low-income providers and providers from diverse cultural backgrounds, including a review of the early achievers program's rating tools, quality standard areas, and components, and how they are applied;

(iv) Strategies in response to data on the effectiveness of early achievers program standards in relation to providers and children from diverse cultural backgrounds;

(v) Status of the life circumstance exemption protocols; and

(vi) Analysis of early achievers program data trends.

(b) The subcommittee must include consideration of cultural linguistic responsiveness when analyzing the areas for review required by (a) of this subsection.

(c) The subcommittee shall include representatives from child care centers, family child care, the early childhood education and assistance program, contractors for early achievers program technical assistance and coaching, the organization responsible for conducting early achiever program ratings, and parents of children participating in early learning programs, including working connections child care and early childhood education and assistance programs. The subcommittee shall include representatives from diverse cultural and linguistic backgrounds.

(10) The department shall provide staff support to the council.

NEW SECTION. Sec. 16. A new section is added to chapter 43.215 RCW to read as follows:

EARLY START ACCOUNT.

The early start account is created in the state treasury. Revenues in the account shall consist of appropriations by the legislature and all other sources deposited into the account. Moneys in the account may only be used after appropriation. Expenditures from the account may be used only to improve the quality of early care and education programming. The department oversees the account.

NEW SECTION. Sec. 17. A new section is added to chapter 43.215 RCW to read as follows:

ANNUAL PROGRESS REPORT.

Beginning December 1, 2015, and each December 1st thereafter, the department, in collaboration with the early achievers review subcommittee of the early learning advisory council, shall submit, in compliance with RCW 43.01.036, a progress report to the governor and the legislature regarding providers' progress in the early achievers program. Each progress report must include the following elements:

(1) The number, and relative percentage, of providers by region who have enrolled in early achievers and who have:

(a) Completed the level 2 activities;

(b) Achieved the required rating level to remain eligible for state-funded support under the early childhood education and assistance program or a subsidy under the working connections child care program;

(c) Failed to achieve the required rating level and engaged in remedial activities before successfully achieving the required rating level;

(d) Failed to achieve the required rating level after completing remedial activities; or

(e) Received an extension from the department based on exceptional circumstances pursuant to RCW 43.215.100;

(2) A review of the services available to providers and children from diverse cultural backgrounds;

(3) An examination of the effectiveness of efforts to increase successful participation by providers serving children and families from diverse cultural and linguistic backgrounds and providers who serve children from low-income households;

(4) A description of the primary obstacles and challenges faced by providers who have not achieved the required rating level to remain eligible to receive:

(a) A subsidy under the working connections child care program; or

(b) State-funded support under the early childhood education and assistance program;

(5) A summary of the types of exceptional circumstances for which the department has granted an extension pursuant to RCW 43.215.100;

(6) To the extent data is available, an analysis of the distribution of early achievers program rated facilities in relation to child and provider demographics, including but not limited to race and ethnicity, home language, and geographical location;

(7) Recommendations for improving access for children from diverse cultural backgrounds to providers rated at a level 3 or higher in the early achievers program; and

(8) Recommendations for improving the early achievers program standards.

Sec. 18. RCW 43.215.010 and 2013 c 323 s 3 and 2013 c 130 s 1 are each reenacted and amended to read as follows:

DEFINITIONS.

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

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child care provider who regularly provides early childhood education and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection, even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools that are engaged primarily in early childhood education with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school((-)age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing child care for periods of less than twenty-four hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:

(i) Activities other than employment; or

(ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;

(i) Any entity that provides recreational or educational programming for school((-)age((♠)) children only and the entity meets all of the following requirements:

(i) The entity utilizes a drop-in model for programming, where children are able to attend during any or all program hours without a formal reservation;

(ii) The entity does not assume responsibility in lieu of the parent, unless for coordinated transportation;

(iii) The entity is a local affiliate of a national nonprofit; and

(iv) The entity is in compliance with all safety and quality standards set by the associated national agency;

(j) A program operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) A program located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(l) A program that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(5) "Department" means the department of early learning.

(6) "Director" means the director of the department.

(7) "Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

(8) "Early childhood education and assistance program contractor" means an organization that provides early childhood education and assistance program services under a signed contract with the department.

(9) "Early childhood education and assistance program provider" means an organization that provides site level, direct, and high quality early childhood education and assistance program services under the direction of an early childhood education and assistance program contractor.

(10) "Early start" means an integrated high quality continuum of early learning programs for children birth-to-five years of age. Components of early start include, but are not limited to, the following:

(a) Home visiting and parent education and support programs;

(b) The early achievers program described in RCW 43.215.100;

(c) Integrated full-day and part-day high quality early learning programs; and

(d) High quality preschool for children whose family income is at or below one hundred ten percent of the federal poverty level.

~~((9))~~ (11) "Education data center" means the education data center established in RCW 43.41.400, commonly referred to as the education research and data center.

(12) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

~~((49))~~ (13) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

~~((44))~~ (14) "Extended day program" means an early childhood education and assistance program that offers early learning education for at least ten hours per day, a minimum of two thousand hours per year, at least four days per week, and operates year round.

(15) "Full day program" means an early childhood education and assistance program that offers early learning education for a minimum of one thousand hours per year.

(16) "Low-income child care provider" means a person who administers a child care program that consists of at least eighty percent of children receiving working connections child care subsidy.

(17) "Low-income neighborhood" means a district or community where more than twenty percent of households are below the federal poverty level.

(18) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

~~((12))~~ (19) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

~~((13))~~ (20) "Nonschool age child" means a child who is age six years or younger and who is not enrolled in a public or private school.

(21) "Part day program" means an early childhood education and assistance program that offers early learning education for at least two and one-half hours per class session, at least three hundred twenty hours per year, for a minimum of thirty weeks per year.

(22) "Private school" means a private school approved by the state under chapter 28A.195 RCW.

(23) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

~~((14))~~ (24) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

~~((15))~~ (25) "School age child" means a child who is between the ages of five years and twelve years and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

(26) "Washington state preschool program" means an education program for children three-to-five years of age who have not yet entered kindergarten, such as the early childhood education and assistance program.

NEW SECTION. Sec. 19. A new section is added to chapter 43.215 RCW to read as follows:

JOINT SELECT COMMITTEE ON THE EARLY ACHIEVERS PROGRAM.

(1)(a) A joint select committee on the early achievers program is established with members as provided in this subsection.

(i) Chair and ranking minority member of the house of representatives appropriations committee, or his or her designee;

(ii) Chair and ranking minority member of the senate ways and means committee, or his or her designee;

(iii) Chair and ranking minority member of the house of representatives early learning and human services committee, or his or her designee; and

(iv) Chair and ranking minority member of the senate early learning and K-12 education committee, or his or her designee.

(b) The committee shall choose its chair or co-chairs from among its legislative membership. The chair of the house of representatives appropriations committee, or his or her designee, and the chair of the senate ways and means committee, or his or her designee, shall convene the initial meeting of the committee.

(2) Between July 1, 2017, and December 1, 2017, the early achievers joint select committee shall review the demand and availability of licensed or certified child care family homes and centers, approved early childhood education and assistance programs, head start programs, and family, friend, and neighbor caregivers by geographic region, including rural and low-income areas. This review shall specifically look at the following:

(a) The geographic distribution of these child care programs by type of program, programs that accept state subsidy, enrollment in the early achievers program, and early achievers rating levels; and

(b) The demand and availability of these child care programs for major ethnic populations.

(3) By December 1, 2017, the early achievers joint select committee shall make recommendations to the legislature on the following:

(a) The sufficiency of funding provided for the early achievers program;

(b) The need for targeted funding for specific geographic regions or major ethnic populations; and

(c) Whether to modify the deadlines established in RCW 43.215.135 for purposes of the early achievers program mandate established in RCW 43.215.100.

(4) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.

(5) Legislative members of the committee must be reimbursed for travel expenses in accordance with RCW 44.04.120.

(6) The expenses of the committee must be paid jointly by the senate and the house of representatives. Committee expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(7) The committee shall report its findings and recommendations to the appropriate committees of the legislature by December 1, 2017.

(8) This section expires December 1, 2018.

NEW SECTION. Sec. 20. REPEALER. 2013 2nd sp.s. c 16 s 2 (uncodified) is repealed.

NEW SECTION. Sec. 21. A new section is added to chapter 43.215 RCW to read as follows:

SHORT TITLE.

Chapter . . . , Laws of 2015 (this act) may be known and cited as the early start act.

NEW SECTION. Sec. 22. EFFECTIVE DATE. Section 7 of this act takes effect January 1, 2016. Section 4 of this act takes effect July 1, 2016.

NEW SECTION. Sec. 23. NULL AND VOID. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void."

Correct the title.

Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Buys; Condotta; Hunt, G.; Taylor and Van Werven.

MINORITY recommendation: Without recommendation. Signed by Representative Parker, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5481

Prime Sponsor, Committee on Transportation:
Concerning tolling customer service reform.
Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.63.160 and 2013 c 226 s 1 are each amended to read as follows:

(1) This section applies only to civil penalties for nonpayment of tolls detected through use of photo toll systems.

(2) Nothing in this section prohibits a law enforcement officer from issuing a notice of traffic infraction to a person in control of a vehicle at the time a violation occurs under RCW 46.63.030(1) (a), (b), or (c).

(3) A notice of civil penalty may be issued by the department of transportation when a toll is assessed through use of a photo toll system and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(4) Any registered owner or renter of a vehicle traveling upon a toll facility operated under chapter 47.56 or 47.46 RCW is subject to a civil penalty governed by the administrative procedures set forth in this section when the vehicle incurs a toll charge and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge.

(5)(a) The department shall develop rules to allow an individual who has been issued a notice of civil penalty to present evidence of mitigating circumstances as to why a toll bill was not timely paid. If an individual is able to present verifiable evidence to the department that a civil penalty was incurred due to hospitalization, military deployment, eviction, homelessness, death of the alleged violator or of an alleged violator's immediate family member, failure to receive the toll bill due to an incorrect address that has since been corrected, a prepaid electronic toll account error that has since been corrected, an error made by the department or an agent of the department, or other mitigating circumstances as determined by the department, the department may dismiss or reduce the civil penalty and associated fees.

(b)(i) Consistent with chapter 34.05 RCW, the department of transportation shall develop an administrative adjudication process to review appeals of civil penalties issued by the department of transportation for toll nonpayment detected through the use of a photo toll system under this section. The department of transportation shall submit to the transportation committees of the legislature an annual report on the number of times adjudicators reduce or dismiss the civil penalty as provided in (b)(ii) of this subsection and the total amount of the civil penalties dismissed. The report must be submitted by December 1st of each year.

~~((b))~~ (ii) During the adjudication process, the alleged violator must have an opportunity to explain mitigating circumstances as to why the toll bill was not timely paid. Hospitalization, a divorce decree or legal separation agreement resulting in a transfer of the vehicle, an active duty member of the military or national guard covered by the federal service members' civil relief act, 50 U.S.C. Sec. 501 et seq., or state service members' civil relief act, chapter 38.42 RCW, eviction, homelessness, the death of the alleged violator or of an immediate family member, ~~((or)), being switched to a different method of toll payment,~~ if the alleged violator did not receive a toll charge bill or notice of civil penalty, or other mitigating circumstances as determined by the adjudicator are deemed valid mitigating circumstances. All of ~~((these))~~ the reasons that constitute mitigating circumstances must ~~((occur))~~ have occurred within a reasonable time of the alleged toll violation. In response to these circumstances, the adjudicator may reduce or dismiss the civil penalty and associated administrative fees.

(6) The use of a photo toll system is subject to the following requirements:

(a) Photo toll systems may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) A notice of civil penalty must include with it a certificate or facsimile thereof, based upon inspection of photographs,

microphotographs, videotape, or other recorded images produced by a photo toll system, stating the facts supporting the notice of civil penalty. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding established under subsection (5) of this section. The photographs, digital photographs, microphotographs, videotape, or other recorded images evidencing the toll nonpayment civil penalty must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the civil penalty.

(c)(i) By June 30, 2016, prior to issuing a notice of civil penalty to a registered owner of a vehicle listed on an active prepaid electronic toll account, the department of transportation must:

(A) Send an electronic mail notice to the email address provided in the prepaid electronic toll account of unpaid pay-by-mail toll bills at least ten days prior to a notice of civil penalty being issued for the associated pay-by-mail toll. The notice must be separate from any regular notice sent by the department; and

(B) Call the phone numbers provided in the account to provide notice of unpaid pay-by-mail toll bills at least ten days prior to a notice of civil penalty being issued for the associated pay-by-mail toll.

(ii) The department is relieved of its obligation to provide notice as required by this section if the customer has declined to receive communications from the department through such methods.

(d) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this section are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under this section. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under this section. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

~~((d))~~ (e) All locations where a photo toll system is used must be clearly marked by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where tolls are assessed and enforced by a photo toll system.

~~((e))~~ (f) Within existing resources, the department of transportation shall conduct education and outreach efforts at least six months prior to activating an all-electronic photo toll system. Methods of outreach shall include a department presence at community meetings in the vicinity of a toll facility, signage, and information published in local media. Information provided shall include notice of when all electronic photo tolling shall begin and methods of payment. Additionally, the department shall provide quarterly reporting on education and outreach efforts and other data related to the issuance of civil penalties.

~~((f))~~ (g) The envelope containing a toll charge bill or related notice issued pursuant to RCW 47.46.105 or 47.56.795, or a notice of civil penalty issued under this section, must prominently indicate that the contents are time sensitive and related to a toll violation.

(7) Civil penalties for toll nonpayment detected through the use of photo toll systems must be issued to the registered owner of the vehicle identified by the photo toll system, but are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120.

(8) The civil penalty for toll nonpayment detected through the use of a photo toll system is forty dollars plus the photo toll and associated fees.

(9) Except as provided otherwise in this subsection, all civil penalties, including the photo toll and associated fees, collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed. However, through June 30, 2013, civil penalties deposited into the Tacoma Narrows toll bridge account created under RCW 47.56.165 that are in excess of amounts necessary to support the toll adjudication process applicable to toll collection on the Tacoma Narrows bridge must first be allocated toward repayment of operating loans and reserve payments provided to the account from the motor vehicle account under section 1005(15), chapter 518, Laws of 2007. Additionally, all civil penalties, resulting from nonpayment of tolls on the state route number 520 corridor, shall be deposited into the state route number 520 civil penalties account created under section 4, chapter 248, Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June 30, 2010.

(10) If the registered owner of the vehicle is a rental car business, the department of transportation shall, before a toll bill is issued, provide a written notice to the rental car business that a toll bill may be issued to the rental car business if the rental car business does not, within thirty days of the mailing of the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the toll was assessed; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the toll was assessed because the vehicle was stolen at the time the toll was assessed. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(c) In lieu of identifying the vehicle operator, the rental car business may pay the applicable toll and fee.

Timely mailing of this statement to the issuing agency relieves a rental car business of any liability under this section for the payment of the toll.

(11) It is the intent of the legislature that the department provide an educational opportunity when vehicle owners incur fees and penalties associated with late payment of tolls for the first time. As part of this educational opportunity, the department may waive penalties and fees if the issue that resulted in the toll not being timely paid has been resolved and the vehicle owner establishes an electronic toll account, if practicable. To aid in collecting tolls in a timely manner, the department may waive or reduce the outstanding amounts of fees and penalties assessed when tolls are not timely paid.

(12)(a) By June 30, 2016, the department of transportation must update its web site, and accommodate access to the web site from mobile platforms, to allow toll customers to efficiently manage all their tolling accounts, regardless of method of payment.

(b)(i) By June 30, 2016, the department of transportation must make available to the public a point of access that allows a third party to develop an application for mobile technologies that (A) securely accesses a user's toll account information and (B) allows the user to manage his or her toll account to the same extent possible through the department's web site.

(ii) If the department determines that it would be cost-effective and in the best interests of the citizens of Washington, it may also develop an application for mobile technologies that allows toll customers to manage all of their tolling accounts from a mobile platform.

(13) When acquiring a new photo toll system, the department of transportation must enable the new system to:

(a) Connect with the department of licensing's vehicle record system so that a prepaid electronic toll account can be updated automatically when a toll customer's vehicle record is updated, if the customer has consented to such updates; and

(b) Document when any toll is assessed for a vehicle listed in a prepaid electronic toll account in the monthly statement that is made available to the electronic toll account holder regardless of whether the method of payment for the toll is via pay-by-mail or prepaid electronic toll account.

(14) Consistent with chapter 34.05 RCW, the department of transportation shall develop rules to implement this section.

~~((12))~~ (15) For the purposes of this section~~((:))~~:

(a) "Photo toll system" means the system defined in RCW 47.56.010 and 47.46.020.

(b) "Prepaid electronic toll account" means a prepaid toll account linked to a pass or license plate number, including "Good to Go!".

(16) If a customer's toll charge or civil penalty is waived pursuant to this section due to an error made by the department, or an agent of the department, in reading the customer's license plate, the secretary of transportation must send a letter to the customer apologizing for the error.

Sec. 2. RCW 47.56.795 and 2010 c 249 s 3 are each amended to read as follows:

(1) A toll collection system may include, but is not limited to, electronic toll collection and photo tolling.

(2)(a) A photo toll system may take photographs, digital photographs, microphotographs, videotapes, or other recorded images of the vehicle and vehicle license plate only.

(b) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this chapter are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under RCW 46.63.160. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under RCW 46.63.160. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies. Aggregate records that do not identify an individual, vehicle, or account may be maintained.

(3) The department and its agents shall only use electronic toll collection system technology for toll collection purposes.

(4) Tolls may be collected and paid by the following methods:

(a) A customer may pay an electronic toll through an electronic toll collection account;

(b) A customer may pay a photo toll either through a customer-initiated payment or in response to a toll bill; or

(c) A customer may pay with cash on toll facilities that have a manual cash collection system.

(5) To the extent practicable, the department shall adopt electronic toll collection options, which allow for anonymous customer accounts and anonymous accounts that are not linked to a specific vehicle.

(6) The transportation commission shall adopt rules, in accordance with chapter 34.05 RCW, to assess administrative fees as appropriate for toll collection processes. Administrative fees must not exceed toll collection costs. All administrative fees collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed.

(7) Failure to pay a photo toll by the toll payment due date is a violation for which a notice of civil penalty may be issued under RCW 46.63.160.

(8) For an electronic toll collection system that uses an in-vehicle device, such as a transponder, to identify a particular customer for the purposes of paying an electronic toll from that customer's toll collection account, the department must allow such in-vehicle devices to be offered for sale at vehicle dealers."

Correct the title.

Signed by Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist; Gregerson; Harmsworth; Hayes; Kochmar; McBride; Moeller; Morris; Ortiz-Self; Pike; Riccelli; Rodne; Sells; Shea; Takko; Tarleton; Wilson; Young and Zeiger.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5486 Prime Sponsor, Committee on Ways & Means: Creating the parents for parents program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Buys; Condotta and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5488 Prime Sponsor, Committee on Health Care: Concerning applied behavior analysis. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5518 Prime Sponsor, Committee on Higher Education: Creating procedures to address campus sexual violence. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; Buys; Condotta; Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5534 Prime Sponsor, Committee on Higher Education: Creating the certified public accounting scholarship program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Higher Education. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger; Van Werven and Walkinshaw.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5631 Prime Sponsor, Committee on Human Services, Mental Health & Housing: Concerning the administration of a statewide network of community-based domestic violence victim services by the department of social and health services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Public Safety. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta; Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5633 Prime Sponsor, Committee on Ways & Means: Creating a coordinator for the helmets to hardhats program in the department of veterans affairs. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Community Development, Housing & Tribal

Affairs. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Without recommendation. Signed by Representative Buys.

Passed to Committee on Rules for second reading.

April 7, 2015

E2SSB 5649 Prime Sponsor, Committee on Ways & Means: Concerning involuntary outpatient mental health treatment. (REVISED FOR ENGROSSED: Concerning the involuntary treatment act.) Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Judiciary as further amended by Committee on Appropriations.

On page 32 of the amendment, after line 4, insert the following:

"NEW SECTION. Sec. 17. If specific funding for the purposes of section 15 of this act, referencing section 15 of this act by bill or chapter number and section number, is not provided by June 30, 2015, in the omnibus appropriations act, section 15 of this act is null and void."

Renumber the remaining sections consecutively and correct any internal references accordingly.

Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

E2SSB 5688 Prime Sponsor, Committee on Ways & Means: Providing students with skills that promote mental health and well-being and increase academic performance. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Appropriations and without amendment by Committee on Education.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The education of children is critically important. In order for children to be ready to learn and ready to ultimately enter the workforce prepared, they need to have academic, social, and emotional skills.

Responsible decision making, self management, healthy relationship skills, and self and social awareness are among the tools students need. These essential skills help improve school climate and reduce bullying, discipline issues, dropout rates, and the educational opportunity gap at the same time as they increase mental well-being, student engagement, and academic performance.

Schools teaching developmentally appropriate interpersonal and decision-making knowledge and skills of social and emotional learning see large increases in academic performance.

Students today experience unfathomable stresses. Over thirty thousand K-12 students are homeless. Thousands experience bullying, depression, abuse, or have witnessed domestic violence or other violence in their communities. Many have lost a parent or suffered a traumatic experience.

Emotions and relationships directly affect how students learn and how they use that learning in other contexts. If a student is anxious, afraid, or worried about other stresses in his or her life, those emotions will interfere with attention, memory, and positive behaviors. By developing social and emotional skills, students will be equipped with tools to overcome barriers to their learning and even find solace in education and going to school.

The legislature is committed to investing in preventative strategies in schools to increase student mental health and well-being in order to support the education of our state's children.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.300 RCW to read as follows:

(1) The department of student support services and the department of teaching and learning in the office of the superintendent of public instruction shall convene a work group to recommend comprehensive benchmarks for developmentally appropriate interpersonal and decision-making knowledge and skills of social and emotional learning for grades kindergarten through high school that build upon what is being done in early learning. These benchmarks must include, at every grade level, competencies for at least the following:

(a) Self management. Regulating one's emotions to handle stress, control impulses, and persevere in overcoming obstacles; achieving personal and academic goals; and expressing emotions appropriately;

(b) Self awareness. Accurately assessing one's feelings, interests, and strengths; maintaining a well-grounded sense of self-confidence;

(c) Social awareness. Being able to empathize with others; appreciating individual and group similarities and differences; effectively using family, school, and community resources;

(d) Relationship skills. Interacting cooperatively with others; resisting inappropriate social pressure; dealing effectively with interpersonal conflict; seeking help when needed; and

(e) Responsible decision making. Making decisions based on factors such as ethical standards, safety concerns, social norms, respect for others, and likely consequences; applying decision-making skills to daily situations;

(2) The work group shall also develop:

(a) Guidance for schools, school districts, and educators in promoting developmentally appropriate interpersonal and decision-making knowledge and skills of social and emotional learning that:

(i) Is culturally competent;

(ii) Is linguistically appropriate;

(iii) Provides a positive learning environment for students;

(iv) Is inclusive of parental involvement;

(v) Promotes school safety and a positive school climate;

(vi) Includes best practices in assisting students through school transitions between elementary, middle, and high school; and

(vii) Incorporates best practices to address the mental health continuum of children, from mental well-being and mental health to mental illness, and acknowledges research around adverse childhood experiences;

(b) Technical advice on how developmentally appropriate interpersonal and decision-making knowledge and skills of social and emotional learning fits within existing teacher and principal evaluations particularly as it relates to school safety and school climate; and

(c) An implementation plan that provides a framework for incorporating developmentally appropriate interpersonal and decision-making knowledge and skills of social and emotional learning and is aligned with other Washington state education initiatives including college and career readiness, STEM education, twenty-first century skills, and the Washington state learning standards.

(3) To inform the work of the work group, the office of the superintendent of public instruction shall conduct a survey of schools to ascertain how many schools in the state are teaching interpersonal and decision-making knowledge and skills of social and emotional learning and to understand individual districts' capacity to implement these frameworks.

(4) The work group must include persons with expertise in interpersonal and decision-making knowledge and skills of social and emotional learning; child development; job readiness; and mental health; and the following:

(a) One representative from the department of early learning;

(b) One representative each from the student support services and teaching and learning departments within the office of the superintendent of public instruction;

(c) One representative from the educational opportunity gap oversight and accountability committee;

(d) One representative from the office of the education ombuds;

(e) One higher education faculty member with expertise in interpersonal and decision-making knowledge and skills of social and emotional learning;

(f) One currently employed K-12 educator and one currently employed K-12 administrator;

(g) One school counselor, one school psychologist, and one social worker;

(h) One mental health counselor; and

(i) One representative from a school parent organization.

(5) To the greatest extent possible, the members of the work group must reflect the cultural, racial, ethnic, gender, and geographic diversity of Washington state.

(6) The work group may also include one member from each of the two largest caucuses of the senate, appointed by the president of the senate and one member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives. Each of the two largest caucuses of the senate and the two largest caucuses of the house of representatives may determine whether or not a member from that caucus will be appointed.

(7) The work group shall consult with: School districts; educational service districts; school administrators; principals; teachers; paraeducators; school counselors; community organizations serving youth; a statewide organization with expertise in interpersonal and decision-making knowledge and skills of social and emotional learning; a statewide organization with expertise in multitiered systems of support; federally recognized tribes; the state's four ethnic commissions representing the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans; and community organizations representing communities of color,

immigrant and refugee communities, parents and students, and homeless children and youth.

(8) By October 1, 2016, the work group shall submit a report to the education committees of the legislature, the governor, and the superintendent of public instruction that includes its recommendations for benchmarks, guidance, technical advice, and an implementation plan. The office of the superintendent of public instruction shall make the report available to school districts by including it on the web site.

Sec. 3. RCW 28A.310.500 and 2013 c 197 s 6 are each amended to read as follows:

(1) Each educational service district shall develop and maintain the capacity to offer training for educators and other school district staff on youth suicide screening and referral, and on recognition, initial screening, and response to emotional or behavioral distress in students, including but not limited to indicators of possible substance abuse, violence, and youth suicide. An educational service district may demonstrate capacity by employing staff with sufficient expertise to offer the training or by contracting with individuals or organizations to offer the training. Training may be offered on a fee-for-service basis, or at no cost to school districts or educators if funds are appropriated specifically for this purpose or made available through grants or other sources.

(2) Beginning no later than January 1, 2017, two educational service districts shall be selected by the office of the superintendent of public instruction to participate in a pilot project to develop and maintain the capacity to serve as a convener, trainer, and mentor for educators and other school district staff on developmentally appropriate interpersonal and decision-making knowledge and skills of social and emotional learning. Each pilot educational service district may work with school districts to create a training model that addresses the recommended guidelines developed under section 2 of this act. The pilot educational service districts shall demonstrate capacity by employing staff with sufficient expertise to offer the training or by contracting with individuals or organizations to offer the training. Training shall be offered at no cost to school districts or educators if funds are appropriated specifically for this purpose or made available through grants or other sources."

Correct the title.

Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Carlyle; Cody; Dunshee; Fagan; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Condotta; Dent; Haler; Hunt, G.; Taylor and Van Werven.

Passed to Committee on Rules for second reading.

April 7, 2015

SB 5689

Prime Sponsor, Senator Becker: Concerning the scope and costs of the diabetes epidemic in Washington. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority

Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representative Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SB 5717 Prime Sponsor, Senator Angel: Amending the insurer holding company act. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger; Van Werven and Walkinshaw.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5740 Prime Sponsor, Committee on Ways & Means: Concerning extended foster care services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Early Learning & Human Services. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Chandler, Ranking Minority Member; Condotta; Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SB 5746 Prime Sponsor, Senator Bailey: Including Everett Community College as an aerospace training or educational program. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5763 Prime Sponsor, Committee on Ways & Means: Establishing a coalition of commissioned officers of the department of fish and wildlife for the purposes of collective bargaining. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Labor. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Buys; Condotta; Hunt, G.; Magendanz and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SB 5779 Prime Sponsor, Senator Parlette: Reducing penalties applied to regional support networks and behavioral health organizations. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger; Van Werven and Walkinshaw.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5851 Prime Sponsor, Committee on Ways & Means: Concerning recommendations of the college bound scholarship program work group. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Higher Education. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Tharinger; Van Werven and Walkinshaw.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta; Hunt, G. and Taylor.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5877

Prime Sponsor, Committee on Health Care: Concerning due process for adult family home licensees. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Health Care & Wellness. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger; Van Werven and Walkinshaw.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5888

Prime Sponsor, Committee on Ways & Means: Concerning near fatality incidents of children who have received services from the department of social and health services. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended by Committee on Early Learning & Human Services as further amended by Committee on Appropriations.

On page 4, line 7, after "a" strike "social worker" and insert "case worker"

On page 4, line 12, after "the" strike "social worker's and social worker's" and insert "case worker's and case worker's"

Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger; Van Werven and Walkinshaw.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5897

Prime Sponsor, Committee on Ways & Means: Concerning funding for medical evaluations of suspected victims of child abuse. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Carlyle; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger and Van Werven.

Passed to Committee on Rules for second reading.

ESB 5935

Prime Sponsor, Senator Parlette: Concerning biological products. Reported by Committee on Appropriations

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

Sec. 1. RCW 69.41.110 and 1979 c 110 s 1 are each amended to read as follows:

As used in RCW 69.41.100 through 69.41.180, the following words shall have the following meanings:

(1) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label, or wrapping at the time of packaging;

(2) "Generic name" means the official title of a drug or drug ingredients published in the latest edition of a nationally recognized pharmacopoeia or formulary;

(3) "Substitute" means to dispense, with the practitioner's authorization, a "therapeutically equivalent" drug product ~~(of the identical base or salt as the specific drug product prescribed. PROVIDED, That with the practitioner's prior consent, therapeutically equivalent drugs other than the identical base or salt may be dispensed))~~ or "interchangeable biological" drug product;

(4) "Therapeutically equivalent" means a drug product of the identical base or salt as the specific drug product prescribed with essentially the same efficacy and toxicity when administered to an individual in the same dosage regimen; (and)

(5) "Practitioner" means a physician, osteopathic physician and surgeon, dentist, veterinarian, or any other person authorized to prescribe drugs under the laws of this state;

(6) "Biological product" means any of the following, when applied to the prevention, treatment, or cure of a disease or condition of human beings: (a) A virus; (b) a therapeutic serum; (c) a toxin; (d) an antitoxin; (e) a vaccine; (f) blood, blood component, or derivative; (g) an allergenic product; (h) a protein, other than a chemically synthesized polypeptide, or an analogous product; or (i) arsphenamine, a derivative of arsphenamine, or any trivalent organic arsenic compound; and

(7) "Interchangeable" means a biological product licensed by the federal food and drug administration and determined to meet the safety standards for interchangeability pursuant to 42 U.S.C. Sec. 262(k)(4) as set forth in the federal food and drug administration's lists of licensed biological products with reference product exclusivity and biosimilarity or interchangeability valuations, sometimes referred to as the purple book.

Sec. 2. RCW 69.41.120 and 2000 c 8 s 3 are each amended to read as follows:

(1) Every drug prescription shall contain an instruction on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted in its place, unless substitution is permitted under a prior-consent authorization.

If a written prescription is involved, the prescription must be legible and the form shall have two signature lines at opposite ends on the bottom of the form. Under the line at the right side shall be clearly printed the words "DISPENSE AS WRITTEN". Under the line at the left side shall be clearly printed the words "SUBSTITUTION PERMITTED". The practitioner shall communicate the instructions to the pharmacist by signing the appropriate line. No prescription shall be valid without the signature of the practitioner on one of these lines. In the case of a prescription issued by a practitioner in another state that uses a one-line prescription form or variation thereof, the pharmacist may substitute a therapeutically equivalent generic drug or

interchangeable biological product unless otherwise instructed by the practitioner through the use of the words "dispense as written", words of similar meaning, or some other indication.

(2) If an oral prescription is involved, the practitioner or the practitioner's agent shall instruct the pharmacist as to whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted in its place. The pharmacist shall note the instructions on the file copy of the prescription.

(3) The pharmacist shall note the manufacturer of the drug dispensed on the file copy of a written or oral prescription.

(4) The pharmacist shall retain the file copy of a written or oral prescription for the same period of time specified in RCW 18.64.245 for retention of prescription records.

NEW SECTION. Sec. 3. A new section is added to chapter 69.41 RCW to read as follows:

Unless the prescribed biological product is requested by the patient or the patient's representative, if "substitution permitted" is marked on the prescription as provided in RCW 69.41.120, the pharmacist must substitute an interchangeable biological product that he or she has in stock for the biological product prescribed if the wholesale price for the interchangeable biological product to the pharmacist is less than the wholesale price for the biological product prescribed.

NEW SECTION. Sec. 4. A new section is added to chapter 69.41 RCW to read as follows:

(1) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee must make an entry of the specific product provided to the patient, including either the name of the product and the manufacturer or the federal food and drug administration's national drug code, into an interoperable electronic medical records system, through an electronic prescribing technology, through a pharmacy benefit management system, or through a pharmacy record that can be accessed electronically by practitioners. Entry into an electronic records system is presumed to provide notice to the prescriber. Otherwise, the pharmacist must communicate to the practitioner the specific product provided to the patient, including the name of the product and manufacturer, using facsimile, telephone, electronic transmission, or other prevailing means. No entry or communication pursuant to this section is required if:

(a) There is no interchangeable biological product for the product prescribed;

(b) A refill prescription is not changed from the product dispensed on the prior filling of the prescription; or

(c) The pharmacist or the pharmacist's designee and the practitioner communicated before dispensing and the communication included confirmation of the specific product to be provided to the patient, including the name of the product and the manufacturer.

(2) This section expires August 1, 2020.

NEW SECTION. Sec. 5. A new section is added to chapter 69.41 RCW to read as follows:

The pharmacy quality assurance commission must maintain a link on its web site to the current list of all biological products determined by the federal food and drug administration as interchangeable.

Sec. 6. RCW 69.41.150 and 2003 1st sp.s. c 29 s 6 are each amended to read as follows:

(1) A practitioner who authorizes a prescribed drug shall not be liable for any side effects or adverse reactions caused by the manner or method by which a substituted drug product is selected or dispensed.

(2) A pharmacist who substitutes ~~((an))~~ a therapeutically equivalent drug product pursuant to RCW 69.41.100 through 69.41.180 as now or hereafter amended assumes no greater liability for selecting the dispensed drug product than would be

incurred in filling a prescription for a drug product prescribed by its established name.

(3) A pharmacist who substitutes a preferred drug for a nonpreferred drug pursuant to RCW 69.41.190 assumes no greater liability for substituting the preferred drug than would be incurred in filling a prescription for the preferred drug when prescribed by name.

(4) A pharmacist who selects an interchangeable biological product to be dispensed pursuant to RCW 69.41.100 through 69.41.180, and the pharmacy for which the pharmacist is providing service, assumes no greater liability for selecting the interchangeable biological product than would be incurred in filling a prescription for the interchangeable biological product when prescribed by name. The prescribing practitioner is not liable for a pharmacist's act or omission in selecting, preparing, or dispensing an interchangeable biological product under this section.

Sec. 7. RCW 69.41.160 and 1979 c 110 s 6 are each amended to read as follows:

Every pharmacy shall post a sign in a location at the prescription counter that is readily visible to patrons stating, "Under Washington law, ~~((an equivalent but))~~ a less expensive interchangeable biological product or equivalent drug may in some cases be substituted for the drug prescribed by your doctor. Such substitution, however, may only be made with the consent of your doctor. Please consult your pharmacist or physician for more information."

Correct the title.

Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Cody; Dent; Dunshee; Fagan; Hansen; Hudgins; Hunt, S.; Jinkins; Kagi; Lytton; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan and Tharinger.

MINORITY recommendation: Do not pass. Signed by Representatives Haler; Hunt, G.; MacEwen; Taylor and Van Werven.

MINORITY recommendation: Without recommendation. Signed by Representatives Condotta and Magendanz.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5957

Prime Sponsor, Committee on Transportation:
Creating a pedestrian safety advisory council.
Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.59 RCW to read as follows:

(1) Within amounts appropriated to the traffic safety commission, the commission must convene a pedestrian safety advisory council comprised of stakeholders who have a unique interest or expertise in pedestrian and road safety.

(2) The purpose of the council is to review and analyze data related to pedestrian fatalities and serious injuries to identify points at which the transportation system can be improved and to identify patterns in pedestrian fatalities and serious injuries.

(3)(a) The council may include, but is not limited to:

(i) A representative from the commission;

(ii) A coroner from the county in which the most pedestrian deaths have occurred;

(iii) A representative from the Washington association of sheriffs and police chiefs;

(iv) Multiple members of law enforcement who have investigated pedestrian fatalities;

(v) A representative from the department of transportation;

(vi) A representative of cities, and up to two stakeholders, chosen by the council, who represent municipalities in which at least one pedestrian fatality has occurred in the previous three years; and

(vii) A representative from a pedestrian advocacy group.

(b) The commission may invite other representatives of stakeholder groups to participate in the council as deemed appropriate by the commission. Additionally, the commission may invite a victim or family member of a victim to participate in the council.

(4) The council must meet at least quarterly. By December 31st of each year, the council must issue an annual report detailing any findings and recommendations to the governor and the transportation committees of the legislature. The commission must provide the annual report electronically to all municipal governments and state agencies that participated in the council during that calendar year. Additionally, the council must report any budgetary or fiscal recommendations to the office of financial management and the legislature by August 1st on a biennial basis.

(5) As part of the review of pedestrian fatalities and serious injuries that occur in Washington, the council may review any available information, including accident information maintained in existing databases; statutes, rules, policies, or ordinances governing pedestrians and traffic related to the incidents; and any other relevant information. The council may make recommendations regarding changes in statutes, ordinances, rules, and policies that could improve pedestrian safety. Additionally, the council may make recommendations on how to improve traffic fatality and serious injury data quality.

(6)(a) Documents prepared by or for the council are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a review by the council, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by the council. For confidential information, such as personally identifiable information and medical records, which are obtained by the council, neither the commission nor the council may publicly disclose such confidential information. No person who was in attendance at a meeting of the council or who participated in the creation, retention, collection, or maintenance of information or documents specifically for the commission or the council shall be permitted to testify in any civil action as to the content of such proceedings or of the documents and information prepared specifically as part of the activities of the council. However, recommendations from the council and the commission generally may be disclosed without personal identifiers.

(b) The council may review, only to the extent otherwise permitted by law or court rule when determined to be relevant and necessary: Any law enforcement incident documentation, such as incident reports, dispatch records, and victim, witness, and suspect statements; any supplemental reports, probable cause statements, and 911 call taker's reports; and any other information determined to be relevant to the review. The commission and the council must maintain the confidentiality of such information to the extent required by any applicable law.

(7) If acting in good faith, without malice, and within the parameters of and protocols established under this chapter, representatives of the commission and the council are immune

from civil liability for an activity related to reviews of particular fatalities and serious injuries.

(8) This section must not be construed to provide a private civil cause of action.

(9)(a) The council may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the council and spend the gifts, grants, or endowments from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560.

(b) Subject to the appropriation of funds for this specific purpose, the council may provide grants targeted at improving pedestrian safety in accordance with recommendations made by the council.

(10) By December 1, 2020, the council must report to the transportation committees of the legislature on the strategies that have been deployed to improve pedestrian safety by the council and make a recommendation as to whether the council should be continued and if there are any improvements the legislature can make to improve the council.

(11) For purposes of this section:

(a) "Council" means the pedestrian safety advisory council.

(b) "Pedestrian fatality" means any death of a pedestrian resulting from a collision with a vehicle, whether on a roadway, at an intersection, along an adjacent sidewalk, or on a path that is contiguous with a roadway.

(c) "Serious injury" means any injury other than a fatal injury that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred.

(12) This section expires June 30, 2021."

Correct the title.

Signed by Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Bergquist; Gregerson; McBride; Moeller; Morris; Ortiz-Self; Riccelli; Sells; Takko; Tarleton and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representatives Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth; Hayes; Kochmar; Pike; Rodne; Shea; Wilson and Young.

Passed to Committee on Rules for second reading.

April 7, 2015

ESSB 5992 Prime Sponsor, Committee on Transportation: Modifying certain requirements for ferry vessel construction. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.60.005 and 2008 c 124 s 1 are each amended to read as follows:

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

(1) "Adaptive management" means a systematic process for continually improving management policies and practices by learning from the outcomes of operational programs.

(2) "Capital plan" means the state ferry system plan developed by the department as described in RCW 47.06.050(2), reviewed by the commission, and reported to the transportation committees of the legislature by the (~~commission~~) department.

(3) "Capital project" has the same meaning as used in budget instructions developed by the office of financial management.

(4) "Commission" means the transportation commission created in RCW 47.01.051.

(5) "Improvement project" has the same meaning as in the budget instructions developed by the office of financial management. If the budget instructions do not define improvement project, then it has the same meaning as "program project" in the budget instructions. If a project meets both the improvement project and preservation project definitions in this section it must be defined as an improvement project. New vessel acquisitions must be defined as improvement projects.

(6) "Life-cycle cost model" means ~~((that portion of a capital asset inventory system which, among other things, is used to estimate future preservation needs))~~ the full cost over the life span of the vessel, including purchase price, installation costs, operating costs, maintenance and projected upgrade costs to meet safety standards, and decommissioning costs at the end of the vessel's service life. The analysis must include probabilistic analysis on known unknowns including, but not limited to, fuel costs, labor costs, and changing safety regulations.

(7) "Maintenance cost" has the same meaning as used in budget instructions developed by the office of financial management.

(8) "Preservation project" has the same meaning as used in budget instructions developed by the office of financial management.

(9) "Route" means all ferry sailings from one location to another, such as the Seattle to Bainbridge route or the Port Townsend to Keystone route.

(10) "Sailing" means an individual ferry sailing for a specific route, such as the 5:00 p.m. sailing from Seattle to Bremerton.

(11) "Travel shed" means one or more ferry routes with distinct characteristics as determined by the department.

(12) "Fixed price contract" means a contract that requires the contractor to deliver a specified project for a set price. Change orders on fixed price contracts are allowable but should be used on a very limited basis.

Sec. 2. RCW 47.60.010 and 2008 c 122 s 20 are each amended to read as follows:

The department is authorized to acquire by lease, charter, contract, purchase, condemnation, or construction, and partly by any or all of such means, and to thereafter operate, improve, and extend, a system of ferries on and crossing Puget Sound and any of its tributary waters and connections thereof, and connecting with the public streets and highways in the state. However, any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810. The system of ferries shall include such boats, vessels, wharves, docks, approaches, landings, franchises, licenses, and appurtenances as shall be determined by the department to be necessary or desirable for efficient operation of the ferry system and best serve the public. Subject to RCW 47.56.820, the department may in like manner acquire by purchase, condemnation, or construction and include in the ferry system such toll bridges, approaches, and connecting roadways as may be deemed by the department advantageous in channeling traffic to points served by the ferry system. In addition to the powers of acquisition granted by this section, the department is empowered to enter into any contracts, agreements, or leases with any person, firm, or corporation and to thereby provide, on such terms and conditions as it shall determine, for the operation of any ferry or ferries or system thereof, whether acquired by the department or not.

The authority of the department to sell and lease back any state ferry, for federal tax purposes only, as authorized by 26 U.S.C., Sec. 168(f)(8) is confirmed. Legal title and all incidents of

legal title to any ferry sold and leased back (except for the federal tax benefits attributable to the ownership thereof) shall remain in the state of Washington.

Sec. 3. RCW 47.60.810 and 2001 c 226 s 4 are each amended to read as follows:

(1) The department ~~((may purchase new auto ferries through))~~ shall use ((~~of~~)) a modified request for proposals process when purchasing new auto ferries, except for new 144-auto ferries purchased through an option on a contract executed before the effective date of this section, whereby the prevailing shipbuilder and the department engage in a design and build partnership for the design and construction of the auto ferries. The process consists of the three phases described in subsection ~~((2))~~ (3) of this section.

(2) Throughout the three phases described in subsection (3) of this section, the department shall employ an independent owners representative to serve as a third-party intermediary between the department and the proposers, and subsequently the successful proposer. However, this representative shall serve only during the development and construction of the first vessel constructed as part of a new class of vessels developed after the effective date of this section. The independent owners representative shall:

(a) Serve as the department's primary advocate and communicator with the proposers and successful proposer;

(b) Perform project quality oversight;

(c) Manage any change order requests;

(d) Ensure that the contract is adhered to and the department's best interests are considered in all decisions; and

(e) Possess knowledge of and experience with inland waterways, Puget Sound vessel operations, the propulsion system of the new vessels, and Washington state ferries operations.

(3) The definitions in this subsection apply throughout RCW 47.60.812 through 47.60.822.

(a) "Phase one" means the evaluation and selection of proposers to participate in development of technical proposals in phase two.

(b) "Phase two" means the preparation of technical proposals by the selected proposers in consultation with the department.

(c) "Phase three" means the submittal and evaluation of bids, the award of the contract to the successful proposer, and the design and construction of the auto ferries.

Sec. 4. RCW 47.60.814 and 2001 c 226 s 6 are each amended to read as follows:

Subject to legislative appropriation for the procurement of vessels, the department shall issue a request for proposals to interested parties that must include, at least, the following:

(1) Solicitation of a proposal to participate in a design and build partnership with the department to design and construct the auto ferries;

(2) Instructions on the prequalification process and procedures;

(3) A description of the modified request for proposals process. Under this process, the department may modify any component of the request for proposals, including the outline specifications, by addendum at any time before the submittal of bids in phase three;

(4) A description of the design and build partnership process to be used for procurement of the vessels;

(5) Outline specifications that provide the requirements for the vessels including, but not limited to, items such as length, beam, displacement, speed, propulsion requirements, capacities for autos and passengers, passenger space characteristics, and crew size. The department will produce notional line drawings depicting hull geometry that will interface with Washington state ferries terminal facilities. Notional lines may be modified in phase two, subject to approval by the department;

(6) Instructions for the development of technical proposals in phase two, and information regarding confidentiality of technical proposals;

(7) The vessel delivery schedule, identification of the port on Puget Sound where delivery must take place, and the location where acceptance trials must be held;

(8) The estimated price range for the contract;

(9) Notification that the contract will be a fixed price contract;

(10) The form and amount of the required bid deposit and contract security;

~~((10))~~ (11) A copy of the contract that will be signed by the successful proposer;

~~((11))~~ (12) The date by which proposals in phase one must be received by the department in order to be considered;

~~((12))~~ (13) A description of information to be submitted in the proposals in phase one concerning each proposer's qualifications, capabilities, and experience;

~~((13))~~ (14) A statement of the maximum number of proposers that may be selected in phase one for development of technical proposals in phase two;

~~((14))~~ (15) Criteria that will be used for the phase one selection of proposers to participate in the phase two development of technical proposals;

~~((15))~~ (16) A description of the process that will be used for the phase three submittal and evaluation of bids, award of the contract, and postaward administrative activities;

~~((16))~~ (17) A requirement that the contractor comply with all applicable laws, rules, and regulations including but not limited to those pertaining to the environment, worker health and safety, and prevailing wages;

~~((17))~~ (18) A requirement that the vessels be constructed within the boundaries of the state of Washington except that equipment furnished by the state and components, products, and systems that are standard manufactured items are not subject to the in-state requirement under this subsection. For the purposes of this subsection, "constructed" means the fabrication, by the joining together by welding or fastening of all steel parts from which the total vessel is constructed, including, but not limited to, all shell frames, longitudinals, bulkheads, webs, piping runs, wire ways, and ducting. "Constructed" also means the installation of all components and systems, including, but not limited to, equipment and machinery, castings, electrical, electronics, deck covering, lining, paint, and joiner work required by the contract. "Constructed" also means the interconnection of all equipment, machinery, and services, such as piping, wiring, and ducting; ~~and~~

~~((18))~~ (19) A requirement that all vessel design specifications and drawings must be complete and, when applicable, meet United States coast guard standards before vessel construction begins; and

(20) A requirement that all warranty work on the vessel must be performed within the boundaries of the state of Washington, insofar as practical.

NEW SECTION. Sec. 5. A new section is added to chapter 47.60 RCW to read as follows:

If all responses to the initial request for proposals under RCW 47.60.814 are greater than five percent above the department's engineer's estimate for the project, the department must reject all proposals and issue a subsequent request for proposal that is not subject to RCW 47.60.814(18).

Sec. 6. RCW 47.60.820 and 2001 c 226 s 9 are each amended to read as follows:

Phase three consists of the submittal and evaluation of bids and the award of the contract to the successful proposer for the final design and construction of the auto ferries, as follows:

(1) The department shall request bids for detailed design and construction of the vessels after completion of the review of technical proposals in phase two. The department will review

detailed design drawings in phase three for conformity with the technical proposals submitted in phase two. In no case may the department's review replace the builder's responsibility to deliver a product meeting the phase two technical proposal. The department may only consider bids from selected proposers that have qualified to bid by submitting technical proposals that have been approved by the department.

(2) Each qualified proposer must submit its total bid price for all vessels, including certification that the bid is based upon its approved technical proposal and the request for proposals.

(3) Bids constitute an offer and remain open for ninety days from the date of the bid opening. A deposit in cash, certified check, cashier's check, or surety bond in an amount specified in the request for proposals must accompany each bid and no bid may be considered unless the deposit is enclosed.

(4) The department shall evaluate the submitted bids. Upon completing the bid evaluation, the department may select the responsive and responsible proposer that offers the lowest total fixed price bid (price) for all vessels.

(5) The department may waive informalities in the proposal and bid process, accept a bid from the lowest responsive and responsible proposer, reject any or all bids, republish, and revise or cancel the request for proposals to serve the best interests of the department.

(6) The department may:

(a) Award the contract to the proposer that has been selected as the responsive and responsible proposer that has submitted the lowest total fixed price bid (price);

(b) If a contract cannot be signed with the apparent successful proposer, award the contract to the next lowest responsive and responsible proposer; or

(c) If necessary, repeat this procedure with each responsive and responsible proposer in order of rank until the list of those proposers has been exhausted.

(7) If the department awards a contract to a proposer under this section, and the proposer fails to enter into the contract and furnish satisfactory contract security as required by chapter 39.08 RCW within twenty days from the date of award, its deposit is forfeited to the state and will be deposited by the state treasurer to the credit of the Puget Sound capital construction account. Upon the execution of a ferry design and construction contract all proposal deposits will be returned.

(8) The department may provide an honorarium to reimburse each unsuccessful phase three proposer for a portion of its technical proposal preparation costs at a preset, fixed amount to be specified in the request for proposals. If the department rejects all bids, the department may provide the honoraria to all phase three proposers that submitted bids.

(9)(a) To accommodate change orders on a fixed price contract, the department shall request that the legislative appropriation for any auto ferry construction project include a contingency in the following amounts:

(i) For vessels designed to be powered by liquefied natural gas, the contingency may be no more than ten percent of the contract price;

(ii) For all other vessels, the contingency may be no more than five percent of the contract price.

(b) The contingency required by this subsection (9) must be identified in the funding request to the legislature and held in reserve until the department of transportation approves the expenditure.

Sec. 7. RCW 47.56.030 and 2008 c 122 s 8 are each amended to read as follows:

(1) Except as permitted under chapter 47.29 or 47.46 RCW:

(a) Unless otherwise delegated, and subject to RCW 47.56.820, the department of transportation shall have full charge

of the planning, analysis, and construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof.

(b) The transportation commission shall determine and establish the tolls and charges thereon.

(c) Unless otherwise delegated, and subject to RCW 47.56.820, the department shall have full charge of planning, analysis, and design of all toll facilities. The department may conduct the planning, analysis, and design of toll facilities as necessary to support the legislature's consideration of toll authorization.

(d) The department shall utilize and administer toll collection systems that are simple, unified, and interoperable. To the extent practicable, the department shall avoid the use of toll booths. The department shall set the statewide standards and protocols for all toll facilities within the state, including those authorized by local authorities.

(e) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under (e)(i) and (ii) of this subsection:

(i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

(ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

(f) Any new vessel planning, construction, purchase, analysis, or design work must be consistent with RCW 47.60.810.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) When the secretary of the department of transportation determines in writing that the use of invitation for bid is either not practicable or not advantageous to the state and it may be necessary to make competitive evaluations, including technical or performance evaluations among acceptable proposals to complete the contract award, a contract may be entered into by use of a competitive sealed proposals method, and a formal request for proposals solicitation. Such formal request for proposals solicitation shall include a functional description of the needs and requirements of the state and the significant factors.

(b) When purchases are made through a formal request for proposals solicitation the contract shall be awarded to the responsible proposer whose competitive sealed proposal is determined in writing to be the most advantageous to the state taking into consideration price and other evaluation factors set forth in the request for proposals. No significant factors may be used in evaluating a proposal that are not specified in the request for proposals. Factors that may be considered in evaluating proposals include but are not limited to: Price; maintainability; reliability; commonality; performance levels; life cycle cost if applicable under this section; cost of transportation or delivery; delivery schedule offered; installation cost; cost of spare parts; availability of parts and service offered; and the following:

(i) The ability, capacity, and skill of the proposer to perform the contract or provide the service required;

(ii) The character, integrity, reputation, judgment, experience, and efficiency of the proposer;

(iii) Whether the proposer can perform the contract within the time specified;

(iv) The quality of performance of previous contracts or services;

(v) The previous and existing compliance by the proposer with laws relating to the contract or services;

(vi) Objective, measurable criteria defined in the request for proposal. These criteria may include but are not limited to items such as discounts, delivery costs, maintenance services costs, installation costs, and transportation costs; and

(vii) Such other information as may be secured having a bearing on the decision to award the contract.

(c) When purchases are made through a request for proposal process, proposals received shall be evaluated based on the evaluation factors set forth in the request for proposal. When issuing a request for proposal for the procurement of propulsion equipment or systems that include an engine, the request for proposal must specify the use of a life cycle cost analysis that includes an evaluation of fuel efficiency. When a life cycle cost analysis is used, the life cycle cost of a proposal shall be given at least the same relative importance as the initial price element specified in the request of proposal documents. The department may reject any and all proposals received. If the proposals are not rejected, the award shall be made to the proposer whose proposal is most advantageous to the department, considering price and the other evaluation factors set forth in the request for proposal.

NEW SECTION. Sec. 8. RCW 47.56.780 (New ferry vessel construction for service on routes that require a vessel that carries no more than one hundred motor vehicles—How constructed—Warranty work) and 2008 c 4 s 2 are each repealed.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

NEW SECTION. Sec. 10. This act takes effect only if chapter ... (Engrossed Substitute Senate Bill No. 5987), Laws of 2015 is enacted by June 30, 2015."

Correct the title.

Signed by Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist; Gregerson; Harmsworth; Hayes; Kochmar; McBride; Moeller; Morris; Ortiz-Self; Pike; Riccelli; Rodne; Sells; Takko; Tarleton; Wilson; Young and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representative Shea.

Passed to Committee on Rules for second reading.

April 7, 2015

ESSB 5994 Prime Sponsor, Committee on Transportation: Concerning permits for state transportation corridor projects. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended by Committee on Environment as further amended by Committee on Transportation.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 90.58.355 and 2012 c 169 s 1 are each amended to read as follows:

Requirements to obtain a substantial development permit, conditional use permit, ~~((or))~~ variance, letter of exemption, or other review conducted by a local government to implement this chapter shall not apply to ((any person)):

(1) Any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department must ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to RCW 70.105D.090; ~~((or))~~

(2) Any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit. The department must ensure compliance with the substantive requirements of this chapter through the review of engineering reports, site plans, and other documents related to the installation of boatyard storm water treatment facilities;

(3)(a) Subject to the limitations specified in this subsection (3), normal maintenance or repair of existing structures or developments by the department of transportation, including maintenance or repair of damage caused by accident, fire, or the elements.

(b) For purposes of this subsection (3), the following definitions apply:

(i) "Normal maintenance" includes any usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

(ii) "Normal repair" means to restore a structure or development to a state comparable to its original condition including, but not limited to, restoring the development's size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction. Normal repair of a structure or development may not cause substantial adverse effects to shoreline resources or the shoreline environment. Replacement of a structure or development may be authorized as a normal repair if:

(A) Replacement is the common method of repair for the type of structure or development;

(B) The replacement structure or development is comparable to the original structure or development including, but not limited to, the size, shape, configuration, location, and external appearance of the original structure or development; and

(C) The replacement does not cause substantial adverse effects to shoreline resources or the shoreline environment.

(c) Normal maintenance or repair of an existing structure or development under this subsection (3) does not include the expansion of an existing structure or development, or the construction of a new structure or development that does not meet the criteria of a replacement structure or development under (b)(ii) of this subsection (3); or

(4) Construction or installation of safety structures and equipment by the department of transportation, including pavement marking, freeway surveillance and control systems, railroad protective devices not including grade-separated crossings, grooving, glare screen, safety barriers, energy attenuators, and hazardous or dangerous tree removal.

Sec. 2. RCW 90.58.140 and 2012 c 84 s 2 are each amended to read as follows:

(1) A development shall not be undertaken on the shorelines of the state unless it is consistent with the policy of this chapter

and, after adoption or approval, as appropriate, the applicable guidelines, rules, or master program.

(2) A substantial development shall not be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020; and (ii) after their adoption, the guidelines and rules of the department; and (iii) so far as can be ascertained, the master program being developed for the area;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and this chapter.

(3) The local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. The administration of the system so established shall be performed exclusively by the local government.

(4) Except as otherwise specifically provided in subsection (1) of this section, the local government shall require notification of the public of all applications for permits governed by any permit system established pursuant to subsection (3) of this section by ensuring that notice of the application is given by at least one of the following methods:

(a) Mailing of the notice to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the property upon which the substantial development is proposed;

(b) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed; or

(c) Any other manner deemed appropriate by local authorities to accomplish the objectives of reasonable notice to adjacent landowners and the public.

The notices shall include a statement that any person desiring to submit written comments concerning an application, or desiring to receive notification of the final decision concerning an application as expeditiously as possible after the issuance of the decision, may submit the comments or requests for decisions to the local government within thirty days of the last date the notice is to be published pursuant to this subsection. The local government shall forward, in a timely manner following the issuance of a decision, a copy of the decision to each person who submits a request for the decision.

If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.

(5) The system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in subsection (6) of this section; or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of filing as defined in subsection (6) of this section except as follows:

(a) In the case of any permit issued to the state of Washington, department of transportation, for the construction and modification of SR 90 (I-90) on or adjacent to Lake Washington, the construction may begin after thirty days from the date of filing, and the permits are valid until December 31, 1995;

(b)(i) In the case of any permit or decision to issue any permit to the state of Washington, department of transportation, for the replacement of the floating bridge and landings of the state route number 520 Evergreen Point bridge on or adjacent to Lake

Washington, the construction may begin twenty-one days from the date of filing. Any substantial development permit granted for the floating bridge and landings is deemed to have been granted on the date that the local government's decision to grant the permit is issued. This authorization to construct is limited to only those elements of the floating bridge and landings that do not preclude the department of transportation's selection of a four-lane alternative for state route number 520 between Interstate 5 and Medina. Additionally, the Washington state department of transportation shall not engage in or contract for any construction on any portion of state route number 520 between Interstate 5 and the western landing of the floating bridge until the legislature has authorized the imposition of tolls on the Interstate 90 floating bridge and/or other funding sufficient to complete construction of the state route number 520 bridge replacement and HOV program. For the purposes of this subsection (5)(b), the "western landing of the floating bridge" means the least amount of new construction necessary to connect the new floating bridge to the existing state route number 520 and anchor the west end of the new floating bridge;

(ii) Nothing in this subsection (5)(b) precludes the shorelines hearings board from concluding that the project or any element of the project is inconsistent with the goals and policies of the shoreline management act or the local shoreline master program;

(iii) This subsection (5)(b) applies retroactively to any appeals filed after January 1, 2012, and to any appeals filed on or after March 23, 2012, and expires June 30, 2014(-);

(c)(i) In the case of permits for projects addressing significant public safety risk, as defined by the department of transportation, it is not in the public interest to delay construction until all review proceedings are terminated. In the case of any permit or decision to issue any permit for a Washington state department of transportation transportation project, construction may begin twenty-one days after the date of filing if the following requirements are met:

(A) The project qualifies as water-dependent or water-related as applied in this chapter and described in WAC 173-26-020, and the project, as supported by adequate findings supported by evidence in the record, requires an in-water or over-water location;

(B) All components of the project achieve a no net loss of shoreline ecological functions as defined by department guidelines adopted pursuant to RCW 90.58.060;

(C) The project proponent provides the department with an assessment of how the project affects shoreline ecological functions. This assessment must include specific actions for avoiding, minimizing, and mitigating impacts to shoreline ecological functions that ensure that there is no net loss of ecological functions;

(D) The department, after reviewing the assessment required in (c)(i)(C) of this subsection, determines that the project will result in no net loss of ecological functions. The department's determination must be completed before the final issuance of all appropriate shoreline permits and variances; and

(E) A performance bond is posted by the project proponent adequate to finance mitigation for impacts to ecological functions resulting from the project, and long-term reporting and monitoring of ecological functions;

(ii) Nothing in this subsection (5)(c) precludes the shorelines hearings board from concluding that the shoreline project or any element of the project is inconsistent with this chapter, the local shoreline master program, chapter 43.21C RCW and its implementing regulations, and the applicable shoreline regulations;

(iii) This subsection (5)(c) does not apply to permit decisions for the replacement of the floating bridge and landings of the state route number 520 Evergreen Point bridge on or adjacent to Lake Washington;

(d) Except as authorized in (b) and (c) of this subsection, construction may be commenced no sooner than thirty days after the date of the appeal of the board's decision is filed if a permit is granted by the local government and (i) the granting of the permit is appealed to the shorelines hearings board within twenty-one days of the date of filing, (ii) the hearings board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit, and (iii) an appeal for judicial review of the hearings board decision is filed pursuant to chapter 34.05 RCW. The appellant may request, within ten days of the filing of the appeal with the court, a hearing before the court to determine whether construction pursuant to the permit approved by the hearings board or to a revised permit issued pursuant to the order of the hearings board should not commence. If, at the conclusion of the hearing, the court finds that construction pursuant to such a permit would involve a significant, irreversible damaging of the environment, the court shall prohibit the permittee from commencing the construction pursuant to the approved or revised permit until all review proceedings are final. Construction pursuant to a permit revised at the direction of the hearings board may begin only on that portion of the substantial development for which the local government had originally issued the permit, and construction pursuant to such a revised permit on other portions of the substantial development may not begin until after all review proceedings are terminated. In such a hearing before the court, the burden of proving whether the construction may involve significant irreversible damage to the environment and demonstrating whether such construction would or would not be appropriate is on the appellant;

~~((d))~~ (e) Except as authorized in (b) and (c) of this subsection, if the permit is for a substantial development meeting the requirements of subsection (11) of this section, construction pursuant to that permit may not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in subsection (6) of this section.

If a permittee begins construction pursuant to (a), (b), (c), ~~((d))~~ (d), or (e) of this subsection, the construction is begun at the permittee's own risk. If, as a result of judicial review, the courts order the removal of any portion of the construction or the restoration of any portion of the environment involved or require the alteration of any portion of a substantial development constructed pursuant to a permit, the permittee is barred from recovering damages or costs involved in adhering to such requirements from the local government that granted the permit, the hearings board, or any appellant or intervener.

(6) Any decision on an application for a permit under the authority of this section, whether it is an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general. This shall be accomplished by return receipt requested mail. A petition for review of such a decision must be commenced within twenty-one days from the date of filing of the decision.

(a) With regard to a permit other than a permit governed by subsection (10) of this section, "date of filing" as used in this section refers to the date of actual receipt by the department of the local government's decision.

(b) With regard to a permit for a variance or a conditional use governed by subsection (10) of this section, "date of filing" means the date the decision of the department is transmitted by the department to the local government.

(c) When a local government simultaneously transmits to the department its decision on a shoreline substantial development with its approval of either a shoreline conditional use permit or variance, or both, "date of filing" has the same meaning as defined in (b) of this subsection.

(d) The department shall notify in writing the local government and the applicant of the date of filing by telephone or electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision.

(7) Applicants for permits under this section have the burden of proving that a proposed substantial development is consistent with the criteria that must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.180 (1) and (2), the person requesting the review has the burden of proof.

(8) Any permit may, after a hearing with adequate notice to the permittee and the public, be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. If the department is of the opinion that noncompliance exists, the department shall provide written notice to the local government and the permittee. If the department is of the opinion that the noncompliance continues to exist thirty days after the date of the notice, and the local government has taken no action to rescind the permit, the department may petition the hearings board for a rescission of the permit upon written notice of the petition to the local government and the permittee if the request by the department is made to the hearings board within fifteen days of the termination of the thirty-day notice to the local government.

(9) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(10) Any permit for a variance or a conditional use issued with approval by a local government under their approved master program must be submitted to the department for its approval or disapproval.

(11)(a) An application for a substantial development permit for a limited utility extension or for the construction of a bulkhead or other measures to protect a single-family residence and its appurtenant structures from shoreline erosion shall be subject to the following procedures:

(i) The public comment period under subsection (4) of this section shall be twenty days. The notice provided under subsection (4) of this section shall state the manner in which the public may obtain a copy of the local government decision on the application no later than two days following its issuance;

(ii) The local government shall issue its decision to grant or deny the permit within twenty-one days of the last day of the comment period specified in (a)(i) of this subsection; and

(iii) If there is an appeal of the decision to grant or deny the permit to the local government legislative authority, the appeal shall be finally determined by the legislative authority within thirty days.

(b) For purposes of this section, a limited utility extension means the extension of a utility service that:

(i) Is categorically exempt under chapter 43.21C RCW for one or more of the following: Natural gas, electricity, telephone, water, or sewer;

(ii) Will serve an existing use in compliance with this chapter; and

(iii) Will not extend more than twenty-five hundred linear feet within the shorelines of the state."

Correct the title.

Signed by Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist; Gregerson; Harmsworth; Hayes; Kochmar; McBride; Moeller; Morris; Ortiz-Self; Pike; Riccelli; Rodne; Sells; Takko; Tarleton; Wilson; Young and Zeiger.

MINORITY recommendation: Do not pass. Signed by Representative Shea.

Passed to Committee on Rules for second reading.

April 7, 2015

ESB 5995

Prime Sponsor, Senator King: Modifying the transportation system policy goal of mobility. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 47.04.280 and 2013 c 199 s 1 are each amended to read as follows:

(1) It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. The policy goals established under this section are deemed consistent with the benchmark categories adopted by the state's blue ribbon commission on transportation on November 30, 2000. Public investments in transportation should support achievement of these policy goals:

(a) Economic vitality: To promote and develop transportation systems that stimulate, support, and enhance the movement of people and goods to ensure a prosperous economy;

(b) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;

(c) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

(d) Mobility: To improve the predictable movement of goods and people throughout Washington state, including congestion relief and improved freight mobility;

(e) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and

(f) Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system.

(2) The powers, duties, and functions of state transportation agencies must be performed in a manner consistent with the policy goals set forth in subsection (1) of this section.

(3) These policy goals are intended to be the basis for establishing detailed and measurable objectives and related performance measures.

(4) It is the intent of the legislature that the office of financial management establish objectives and performance measures for the department of transportation and other state agencies with transportation-related responsibilities to ensure transportation system performance at local, regional, and state government levels progresses toward the attainment of the policy goals set forth in subsection (1) of this section. The office of financial management shall submit initial objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during the 2008 legislative session. The office of financial management shall submit objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during each regular session of the legislature during an even-numbered year thereafter.

(5) A local or regional agency engaging in transportation planning may voluntarily establish objectives and performance measures to demonstrate progress toward the attainment of the policy goals set forth in subsection (1) of this section or any other transportation policy goals established by the local or regional

agency. A local or regional agency engaging in transportation planning is encouraged to provide local and regional objectives and performance measures to be included with the objectives and performance measures submitted to the legislature pursuant to subsection (4) of this section.

(6) This section does not create a private right of action.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

NEW SECTION. Sec. 3. This act takes effect only if chapter ... (Engrossed Substitute Senate Bill No. 5987), Laws of 2015 is enacted by June 30, 2015."

Correct the title.

Signed by Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist; Gregerson; Harmsworth; Hayes; Kochmar; McBride; Moeller; Morris; Ortiz-Self; Pike; Riccelli; Rodne; Sells; Shea; Takko; Tarleton; Wilson; Young and Zeiger.

Passed to Committee on Rules for second reading.

April 7, 2015

ESSB 5996 Prime Sponsor, Committee on Transportation: Concerning Washington state department of transportation projects. Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to achieve transportation regulatory reform that expedites the delivery of transportation projects through a streamlined approach to environmental decision making. The department of transportation should work cooperatively and proactively with state regulatory and natural resource agencies, public and private sector interests, and Indian tribes to avoid project delays. The department and state regulatory and natural resource agencies should continue to implement and improve upon the successful policies, guidance, tools, and procedures that were created as a result of transportation permit efficiency and accountability committee efforts. The department should expedite project delivery and routine maintenance activities through the use of programmatic agreements and permits where possible and seek new opportunities to eliminate duplicative processes.

NEW SECTION. Sec. 2. The legislature recognizes the value that tribal governments provide in the review of transportation projects. The legislature expects the department to continue its efforts to provide consistent consultation and communication during the environmental review of proposed transportation projects.

NEW SECTION. Sec. 3. The department must streamline the permitting process by developing and maintaining positive relationships with the regulatory agencies and the Indian tribes. The department can reduce the time it takes to obtain permits by incorporating impact avoidance and minimization measures into project design and by developing complete permit applications. To streamline the permitting process, the department must:

(1) Implement a multiagency permit program, commensurate with program funding levels, consisting of appropriate regulatory agency staff with oversight and management from the department.

(a) The multiagency permit program must provide early project coordination, expedited project review, project status updates, technical and regulatory guidance, and construction support to ensure compliance.

(b) The multiagency permit program staff must assist department project teams with developing complete biological assessments and permit applications, provide suggestions for how the project can avoid and minimize impacts, and provide input regarding mitigation for unavoidable impacts;

(2) Establish, implement, and maintain programmatic agreements and permits with federal and state agencies to expedite the process of ensuring compliance with the endangered species act, section 106 of the national historic preservation act, hydraulic project approvals, the clean water act, and other federal acts as appropriate;

(3) Collaborate with permitting staff from the United States army corps of engineers, Seattle district, department of ecology, and department of fish and wildlife to develop, implement, and maintain complete permit application guidance. The guidance must identify the information that is required for agencies to consider a permit application complete; and

(4) Perform internal quality assurance and quality control to ensure that permit applications are complete before submitting them to the regulatory agencies.

NEW SECTION. Sec. 4. The legislature finds that an essential component of streamlined permit decision making is the ability of the department to demonstrate the capacity to meet environmental responsibilities. Therefore, the legislature directs that:

(1) Qualified environmental staff within the department must supervise the development of all environmental documentation in accordance with the department's project delivery tools;

(2) The department must conduct special prebid meetings for projects that are environmentally complex. In addition, the department must review environmental requirements related to these projects during the preconstruction meeting held with the contractor who is awarded the bid;

(3) Environmental staff at the department, or consultant staff hired directly by the department, must conduct field inspections to ensure that project activities comply with permit conditions and environmental commitments. These inspectors:

(a) Must notify the department's project engineer when compliance with permit conditions or environmental regulations are not being met; and

(b) Must immediately notify the regulatory agencies with jurisdiction over the nonconforming work; and

(4) When a project is not complying with a permit or environmental regulation, the project engineer must immediately order the contractor to stop all nonconforming work and implement measures necessary to bring the project into compliance with permits and regulations.

NEW SECTION. Sec. 5. The legislature expects the department to continue its efforts to improve training and compliance. The department must:

(1) Provide training in environmental procedures and permit requirements for those responsible for project delivery activities;

(2) Require wetland mitigation sites to be designed by qualified technical specialists that meet training requirements developed by the department in consultation with the department of ecology. Environmental mitigation site improvements must have oversight by environmental staff;

(3) Develop, implement, and maintain an environmental compliance data system to track permit conditions, environmental commitments, and violations;

(4) Continue to implement the environmental compliance assurance procedure to ensure that appropriate agencies are

notified and that action is taken to remedy noncompliant work as soon as possible. When work occurs that does not comply with environmental permits or regulations, the project engineer must document the lessons learned to make other project teams within the department aware of the violation to prevent reoccurrence; and

(5) Provide an annual report summarizing violations of environmental permits and regulations to the department of ecology and the legislature on March 1st of each year for violations occurring during the preceding year.

NEW SECTION. Sec. 6. The legislature finds that local land use reviews under chapter 90.58 RCW need to be harmonized with the efficient accomplishment of necessary maintenance and improvement to state transportation facilities. Local land use review procedures are highly variable and pose distinct challenges for linear facility maintenance and improvement projects sponsored by the department. In particular, clearer procedures for local permitting under chapter 90.58 RCW are needed to meet the objectives of chapter 36.70A RCW regarding department facilities designated as essential public facilities.

NEW SECTION. Sec. 7. Nothing in this chapter may be interpreted to create a private right of action or right of review. Judicial review of the department's environmental review is limited to that available under chapter 43.21C RCW or applicable federal law.

NEW SECTION. Sec. 8. A new section is added to chapter 47.01 RCW to read as follows:

(1) The department shall submit a report to the transportation committees of the legislature detailing engineering errors on highway construction projects resulting in project cost increases in excess of five hundred thousand dollars. The department must submit a full report within ninety days of the negotiated change order resulting from the engineering error.

(2) The department's full report must include an assessment and review of:

- (a) How the engineering error happened;
- (b) The department of the employee or employees responsible for the engineering error, without disclosing the name of the employee or employees;
- (c) What corrective action was taken;
- (d) The estimated total cost of the engineering error and how the department plans to mitigate that cost;
- (e) Whether the cost of the engineering error will impact the overall project financial plan; and
- (f) What action the secretary has recommended to avoid similar engineering errors in the future.

NEW SECTION. Sec. 9. Sections 1 through 7 of this act constitute a new chapter in Title 47 RCW.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

NEW SECTION. Sec. 11. This act takes effect only if chapter ... (Engrossed Substitute Senate Bill No. 5987), Laws of 2015 is enacted by June 30, 2015."

Correct the title.

Signed by Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist; Gregerson; Harmsworth; Hayes; Kochmar; McBride; Moeller; Morris; Ortiz-Self; Pike; Riccelli; Rodne; Sells; Shea; Takko; Tarleton; Wilson; Young and Zeiger.

Passed to Committee on Rules for second reading.

April 7, 2015

ESSB 5997 Prime Sponsor, Committee on Transportation:
Concerning transportation project delivery.
Reported by Committee on Transportation

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.20.785 and 2006 c 37 s 1 are each amended to read as follows:

(1) The department of transportation (~~may~~) is authorized and strongly encouraged to use the design-build procedure for public works projects over ten million dollars (~~where~~) when:

(a) The construction activities are highly specialized and a design-build approach is critical in developing the construction methodology; or

(b) The projects selected provide opportunity for greater innovation and efficiencies between the designer and the builder; or

(c) Significant savings in project delivery time would be realized.

(2) To test the applicability of the design-build procedure on smaller projects and specialty projects, the department may conduct up to five pilot projects on projects that cost between two and ten million dollars. The department shall evaluate these pilot projects with respect to cost, time to complete, efficiencies gained, if any, and other pertinent information to facilitate analysis regarding the further use of the design-build process on projects of this size. This subsection expires upon the completion of the five pilot projects authorized under this subsection.

NEW SECTION. Sec. 2. (1) The joint transportation committee must convene a design-build contracting review panel to examine the department's implementation and use of design-build contracting under RCW 47.20.785.

(2) The design-build contracting review panel must provide a report detailing any recommended changes or improvements that the department of transportation should make to the design-build process in order to maximize cost and schedule efficiencies and ensure that design risk is borne by the appropriate party. The report is due to the transportation committees of the legislature and the governor by December 1, 2016.

(3) The design-build contracting review panel must be comprised of six members, two of which are nationally recognized experts in the field of design-build project delivery, a representative from the association of general contractors, a representative from the American council of engineering companies of Washington, a representative of the professional and technical employees local 17, and a representative from the department of transportation. The two nationally recognized experts must be selected cooperatively by the chairs and ranking members of the senate and house transportation committees from of a list of five to seven proposed candidates provided by the secretary of transportation and the governor. The chair of the design-build contracting review panel must be designated by the appointing authorities. The two experts serving on the panel must be compensated at a rate commensurate with their experience, including reimbursement for expenses according to RCW 43.03.050 and 43.03.060. The joint transportation committee will provide staff support to the design-build contracting review panel.

(4) This section expires June 30, 2017.

NEW SECTION. Sec. 3. A new section is added to chapter 47.01 RCW to read as follows:

(1) The department must develop a construction program business plan that incorporates findings of the report required in section 2 of this act and also outlines a sustainable staffing level of

state-employed engineering staff, adjusted as necessary by additional sustainable revenue and modeled and optimized to address long-term needs in preservation and improvement programs through multiple biennia.

(2) The sustainable staffing level recognizes that it is in the state's interest that periodic increases in workload due to increases in construction funding are best addressed through the use of contract engineering resources in conjunction with limited and flexible augmentations to department staffing levels as necessary for project oversight, accountability, and delivery.

(3) To provide the appropriate management oversight and accountability of the use of contracted services, the plan must also make recommendations on the development of a strong owner strategy that addresses state employee training, career development, and competitive compensation.

(4) The department must submit the plan to the office of financial management and appropriate committees of the legislature one hundred eighty days after the report in section 2 of this act is completed. The department must submit progress reports on implementation of the plan biennially beginning September 30, 2018, until September 30, 2030. The elements of the plan must include:

(a) Sustainable staffing levels to address long-term needs in preservation and improvement programs;

(b) Employee recruitment, retention, training, and compensation status;

(c) Project delivery methods for design and construction; and

(d) A comparison of Washington state to national trends and methods.

(5) To assist in the development of the plan, the department must convene an advisory group to be comprised of the following members:

(a) One representative of the professional and technical employees local 17 to represent the nonmanagement engineering and technical employees of the department;

(b) One member of the managerial engineering and technical staff of the department, who must serve as chair of the advisory group;

(c) One member appointed by the American council of engineering companies of Washington to represent the private design industry; and

(d) One member appointed by the associated general contractors of Washington to represent the private construction industry.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

NEW SECTION. Sec. 5. This act takes effect only if chapter ... (Engrossed Substitute Senate Bill No. 5987), Laws of 2015 is enacted by June 30, 2015."

Correct the title.

Signed by Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Bergquist; Gregerson; Harmsworth; Hayes; Kochmar; McBride; Moeller; Morris; Ortiz-Self; Pike; Riccelli; Rodne; Sells; Shea; Takko; Tarleton; Wilson; Young and Zeiger.

Passed to Committee on Rules for second reading.

April 7, 2015

SSB 5999 Prime Sponsor, Committee on Ways & Means:
Addressing the caseload forecast council.
Reported by Committee on Appropriations

MAJORITY recommendation: Do pass. Signed by Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys; Cody; Condotta; Dent; Dunshee; Fagan; Haler; Hansen; Hudgins; Hunt, G.; Hunt, S.; Jinkins; Kagi; Lytton; MacEwen; Magendanz; Pettigrew; Sawyer; Senn; Springer; Stokesbary; Sullivan; Taylor; Tharinger and Van Werven.

Passed to Committee on Rules for second reading.

There being no objection, the bills, memorials and resolutions listed on the day's committee reports under the fifth order of business were referred to the committees so designated with the exception of HOUSE BILL NO. 1299 which was placed on the second reading calendar.

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 10:00 a.m., April 8, 2015, the 87th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

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	Other Action	1
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2087	Committee Report	1
2195	Committee Report	1
2221	Committee Report	1
5020	Committee Report	1
5028-S	Committee Report	1
5057-S2	Committee Report	1
5070	Committee Report	1
5077-S	Messages	1
5105-S2	Introduction & 1st Reading	1
5107	Committee Report	1
5121	Committee Report	1
5177-S2	Committee Report	1
5179-S2	Committee Report	1
5251	Committee Report	1
5269-S2	Committee Report	1
5275-S	Committee Report	1
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5315-S2	Introduction & 1st Reading	1
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5347-S	Committee Report	1
5404-S2	Committee Report	1
5452-S2	Committee Report	1
5481-S	Committee Report	1
5486-S2	Committee Report	1
5488-S	Committee Report	1
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