

**2006**

**SESSION LAWS**

OF THE

**STATE OF WASHINGTON**

REGULAR SESSION  
FIFTY-NINTH LEGISLATURE  
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**WASHINGTON SESSION LAWS  
GENERAL INFORMATION**

1. EDITIONS AVAILABLE.

- (a) *General Information.* The session laws are printed successively in two editions:
  - (i) a temporary pamphlet edition consisting of a series of one or more paper bound books, which are published as soon as possible following the session, at random dates as accumulated; followed by
  - (ii) a permanent hardbound edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating Revised Code of Washington sections affected.
- (b) *Where and how obtained - price.* Both the temporary and permanent session laws may be ordered from the Statute Law Committee, Pritchard Building, P.O. Box 40552, Olympia, Washington 98504-0552. The temporary pamphlet edition costs \$21.68 per set (\$20.00 plus \$1.68 for state and local sales tax at 8.4%). The permanent edition costs \$37.94 per volume (\$35.00 plus \$2.94 for state and local sales tax at 8.4%). All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER

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

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

3. PARTIAL VETOES

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

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

5. EFFECTIVE DATE OF LAWS

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 2006 regular session to be June 7, 2006 (midnight June 6th).
- (b) Laws that carry an emergency clause take effect immediately upon approval by the Governor.
- (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES

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## CHAPTER 274

[Substitute House Bill 2553]

## SERVICE CONTRACTS

AN ACT Relating to regulating service contracts and guarantee protection products; amending RCW 48.110.010, 48.110.015, 48.110.020, 48.110.030, 48.110.040, 48.110.050, 48.110.060, 48.110.070, 48.110.080, 48.110.090, 48.110.100, 48.110.110, 48.110.120, 48.110.130, 48.110.140, and 48.110.900; adding new sections to chapter 48.110 RCW; creating a new section; repealing RCW 48.96.005, 48.96.010, 48.96.020, 48.96.025, 48.96.030, 48.96.040, 48.96.045, 48.96.047, 48.96.050, 48.96.060, 48.96.900, and 48.96.901; prescribing penalties; and providing an effective date.

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

**Sec. 1.** RCW 48.110.010 and 1999 c 112 s 1 are each amended to read as follows:

The legislature finds that increasing numbers of businesses are selling service contracts for repair, replacement, and maintenance of motor vehicles, appliances, computers, electronic equipment, and other consumer products. There are risks that contract obligors will close or otherwise be unable to fulfill their contract obligations that could result in unnecessary and preventable losses to citizens of this state. The legislature declares that it is necessary to establish standards that will safeguard the public from possible losses arising from the conduct or cessation of the business of service contract obligors or the mismanagement of funds paid for service contracts. The purpose of this chapter is to create a legal framework within which service contracts may be sold in this state and to set forth requirements for conducting a service contract business.

**Sec. 2.** RCW 48.110.015 and 2000 c 208 s 1 are each amended to read as follows:

(1) The following are exempt from this title:

- (a) Warranties;
- (b) Maintenance agreements; and
- (c) Service contracts:

(i) Paid for with separate and additional consideration;

(ii) Issued at the point of sale, or within sixty days of the original purchase date of the property; and

(iii) On tangible property when the tangible property for which the service contract is sold has a purchase price of fifty dollars or less, exclusive of sales tax.

(2) This chapter does not apply to:

(a) ~~((Vehicle service contracts which are governed under chapter 48.96 RCW;~~

~~((b)))~~ Vehicle mechanical breakdown insurance; and

~~((c)))~~ (b) Service contracts on tangible personal property purchased by persons who are not consumers.

**Sec. 3.** RCW 48.110.020 and 2000 c 208 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Administrator" means the person who is responsible for the administration of the service contracts ~~((or))~~ the service contracts plan, or the protection product guarantees.

(2) "Commissioner" means the insurance commissioner of this state.

(3) "Consumer" means an individual who buys any tangible personal property that is primarily for personal, family, or household use.

(4) "Incidental costs" means expenses specified in the guarantee incurred by the protection product guarantee holder related to damages to other property caused by the failure of the protection product to perform as provided in the guarantee. "Incidental costs" may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. Incidental costs may be paid under the provisions of the protection product guarantee in either a fixed amount specified in the protection product guarantee or sales agreement, or by the use of a formula itemizing specific incidental costs incurred by the protection product guarantee holder to be paid.

(5) "Protection product" means any product offered or sold with a guarantee to repair or replace another product or pay incidental costs upon the failure of the product to perform pursuant to the terms of the protection product guarantee.

(6) "Protection product guarantee" means a written agreement by a protection product guarantee provider to repair or replace another product or pay incidental costs upon the failure of the protection product to perform pursuant to the terms of the protection product guarantee.

(7) "Protection product guarantee provider" means a person who is contractually obligated to the protection product guarantee holder under the terms of the protection product guarantee. Protection product guarantee provider does not include an authorized insurer providing a reimbursement insurance policy.

(8) "Protection product guarantee holder" means a person who is the purchaser or permitted transferee of a protection product guarantee.

(9) "Protection product seller" means the person who sells the protection product to the consumer.

(10) "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only.

~~((5))~~ (11) "Motor vehicle" means any vehicle subject to registration under chapter 46.16 RCW.

(12) "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal insurer, syndicate, or any similar entity or combination of entities acting in concert.

~~((6))~~ (13) "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

~~((7))~~ (14) "Provider fee" means the consideration paid by a consumer for a service contract.

~~((8))~~ (15) "Reimbursement insurance policy" means a policy of insurance that is issued to a service contract provider or a protection product guarantee provider to provide reimbursement to the service contract provider or the protection product guarantee provider or to pay on behalf of the service contract provider or the protection product guarantee provider all contractual obligations incurred by the service contract provider or the protection product guarantee provider under the terms of the insured service contracts or protection product guarantees issued or sold by the service contract provider or the protection product guarantee provider.



~~((9))~~ (16) "Service contract" means a contract or agreement for ~~((a separately stated))~~ consideration over and above the lease or purchase price of the property for a specific duration to perform the repair, replacement, or maintenance of property or the indemnification for repair, replacement, or maintenance for operational or structural failure due to a defect in materials or workmanship, or normal wear and tear. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling, with or without additional provision for ~~((indemnity payments for incidental damages to other property directly caused by the failure of the property which is the subject of the service contract, provided the indemnity payment per incident does not exceed the purchase price of the property that is the subject of the service contract))~~ incidental payment of indemnity under limited circumstances, including towing, rental, emergency road services, or other expenses relating to the failure of the product or of a component part thereof.

~~((10))~~ (17) "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.

~~((11))~~ (18) "Service contract provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract.

~~((12))~~ (19) "Service contract seller" means the person who sells the service contract to the consumer.

~~((13))~~ (20) "Warranty" means a warranty made solely by the manufacturer, importer, or seller of property or services without consideration; that is not negotiated or separated from the sale of the product and is incidental to the sale of the product; and that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

**Sec. 4.** RCW 48.110.030 and 2005 c 223 s 33 are each amended to read as follows:

(1) A person may not act as, or offer to act as, or hold himself or herself out to be a service contract provider in this state, nor may a service contract be sold to a consumer in this state, unless the service contract provider has a valid registration as a service contract provider issued by the commissioner.

(2) Applicants to be a service contract provider must make an application to the commissioner upon a form to be furnished by the commissioner. The application must include or be accompanied by the following information and documents:

(a) All basic organizational documents of the service contract provider, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, bylaws, and other applicable documents, and all amendments to those documents;

(b) The identities of the service contract provider's executive officer or officers directly responsible for the service contract provider's service contract business, and, if more than fifty percent of the service contract provider's gross revenue is derived from the sale of service contracts, the identities of the service contract provider's directors and stockholders having beneficial ownership of ten percent or more of any class of securities;

(c) Audited annual financial statements or other financial reports acceptable to the commissioner for the two most recent years which prove that the applicant is solvent and any information the commissioner may require in order to review the current financial condition of the applicant. If the service contract provider is relying on RCW 48.110.050(2) ~~((a) or)~~ (c) to assure the faithful performance of its obligations to service contract holders, then the audited financial statements of the service contract provider's parent company ~~((may be substituted for the audited financial statements of the service contract provider))~~ must also be filed;

(d) An application fee of two hundred fifty dollars, which shall be deposited into the general fund; and

(e) Any other pertinent information required by the commissioner.

(3) The applicant shall appoint the commissioner as its attorney to receive service of legal process in any action, suit, or proceeding in any court. This appointment is irrevocable and shall bind the service contract provider or any successor in interest, shall remain in effect as long as there is in force in this state any contract or any obligation arising therefrom related to residents of this state, and shall be processed in accordance with RCW 48.05.210.

(4) The commissioner may refuse to issue a registration if the commissioner determines that the service contract provider, or any individual responsible for the conduct of the affairs of the service contract provider under subsection (2)(b) of this section, is not competent, trustworthy, financially responsible, or has had a license as a service contract provider or similar license denied or revoked for cause by any state.

(5) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the service contract provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the service contract provider and payment of a fee of two hundred dollars, which shall be deposited into the general fund. If not so renewed, the registration expires on the June 30th next preceding.

(6) A service contract provider shall keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within thirty days after the end of the month in which the change or addition occurs.

**Sec. 5.** RCW 48.110.040 and 2005 c 223 s 34 are each amended to read as follows:

(1) Every registered service contract provider ~~((that is assuring its faithful performance of its obligations to its service contract holders by complying with RCW 48.110.050(2)(b)))~~ must file an annual report for the preceding calendar year with the commissioner on or before March 1st of each year, or within any extension of time the commissioner for good cause may grant. The report must be in the form and contain those matters as the commissioner prescribes and shall be verified by at least two officers of the service contract provider.

(2) At the time of filing the report, the service contract provider must pay a filing fee of twenty dollars which shall be deposited into the general fund.

(3) As part of any investigation by the commissioner, the commissioner may require a service contract provider to file monthly financial reports whenever, in

the commissioner's discretion, there is a need to more closely monitor the financial activities of the service contract provider. Monthly financial statements must be filed in the commissioner's office no later than the twenty-fifth day of the month following the month for which the financial report is being filed. These monthly financial reports are the internal financial statements of the service contract provider. The monthly financial reports that are filed with the commissioner constitute information that might be damaging to the service contract provider if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information may not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner.

**Sec. 6.** RCW 48.110.050 and 1999 c 112 s 6 are each amended to read as follows:

(1) Service contracts shall not be issued, sold, or offered for sale in this state or sold to consumers in this state unless the service contract provider has:

(a) Provided a receipt for, or other written evidence of, the purchase of the service contract to the contract holder; and

(b) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase.

(2) In order to either demonstrate its financial responsibility or assure the faithful performance of ((a)) the service contract provider's obligations to its service contract holders, every service contract provider shall ~~((be responsible for complying))~~ comply with the requirements of one of the following:

(a) Insure all service contracts under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and is properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one;

(b)(i) Maintain a funded reserve account for its obligations under its service contracts issued and outstanding in this state. The reserves shall not be less than forty percent of the gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the commissioner; and

(ii) Place in trust with the commissioner a financial security deposit, having a value of not less than five percent of the gross consideration received, less

claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than twenty-five thousand dollars, consisting of one of the following:

(A) A surety bond issued by an insurer holding a certificate of authority from the commissioner;

(B) Securities of the type eligible for deposit by authorized insurers in this state;

(C) Cash;

(D) An evergreen letter of credit issued by a qualified financial institution; or

(E) Another form of security prescribed by rule by the commissioner; or

(c)(i) Maintain, or its parent company maintain, a net worth or stockholder's equity of at least one hundred million dollars; and

(ii) Upon request, provide the commissioner with a copy of the service contract provider's or the service contract provider's parent company's most recent form 10-K or form 20-F filed with the securities and exchange commission within the last calendar year, or if the company does not file with the securities and exchange commission, a copy of the service contract provider's or the service contract provider's parent company's audited financial statements, which shows a net worth of the service contract provider or its parent company of at least one hundred million dollars. If the service contract provider's parent company's form 10-K, form 20-F, or audited financial statements are filed with the commissioner to meet the service contract provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the service contract provider relating to service contracts sold by the service contract provider in this state. A copy of the guarantee shall be filed with the commissioner. The guarantee shall be irrevocable as long as there is in force in this state any contract or any obligation arising from service contracts guaranteed, unless the parent company has made arrangements approved by the commissioner to satisfy its obligations under the guarantee.

(3) Service contracts shall require the service contract provider to permit the service contract holder to return the service contract within twenty days of the date the service contract was mailed to the service contract holder or within ten days of delivery if the service contract is delivered to the service contract holder at the time of sale, or within a longer time period permitted under the service contract. Upon return of the service contract to the service contract provider within the applicable period, if no claim has been made under the service contract prior to the return to the service contract provider, the service contract is void and the service contract provider shall refund to the service contract holder, or credit the account of the service contract holder with the full purchase price of the service contract. The right to void the service contract provided in this subsection is not transferable and shall apply only to the original service contract purchaser. A ten percent penalty per month shall be added to a refund of the purchase price that is not paid or credited within thirty days after return of the service contract to the service contract provider.

(4) ~~(Except for service contract providers, persons marketing, selling, or offering to sell service contracts for providers are exempt from the registration requirements of RCW 48.110.030.~~

~~(5) The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of service contracts by service contract providers and related service contract sellers, administrators, and other persons complying with this chapter are exempt from the other provisions of this title, except chapter 48.04 RCW and as otherwise provided in this chapter.)~~ This section does not apply to service contracts on motor vehicles or to protection product guarantees.

**Sec. 7.** RCW 48.110.060 and 1999 c 112 s 7 are each amended to read as follows:

(1) Reimbursement insurance policies insuring service contracts or protection product guarantees issued, sold, or offered for sale in this state or issued or sold to consumers in this state shall state that the insurer that issued the reimbursement insurance policy shall reimburse or pay on behalf of the service contract provider or the protection product guarantee provider all sums the service contract provider or the protection product guarantee provider is legally obligated to pay, including but not limited to the refund of the full purchase price of the service contract to the service contract holder or shall provide the service which the service contract provider or the protection product guarantee provider is legally obligated to perform according to the service contract provider's or protection product guarantee provider's contractual obligations under the service contracts or protection product guarantees issued or sold by the service contract provider or the protection product guarantee provider.

(2) The reimbursement insurance policy shall fully insure the obligations of the service contract provider or protection product guarantee provider, rather than partially insure, or insure only in the event of service contract provider or protection product guarantee provider default.

(3) The reimbursement insurance policy shall state that the service contract holder or protection product guarantee holder is entitled to apply directly to the reimbursement insurance company for payment or performance due.

**Sec. 8.** RCW 48.110.070 and 1999 c 112 s 8 are each amended to read as follows:

(1) Service contracts marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state or sold to residents of this state shall be written, printed, or typed in clear, understandable language that is easy to read, and disclose the requirements set forth in this section, as applicable.

(2) Service contracts insured under a reimbursement insurance policy under RCW 48.110.050(2)(a) and 48.110.060 shall not be issued, sold, or offered for sale in this state or sold to residents of this state unless the service contract conspicuously contains a statement in substantially the following form: "Obligations of the service contract provider under this service contract are insured under a service contract reimbursement insurance policy." The service contract shall also conspicuously state the name and address of the issuer of the reimbursement ~~((insurance))~~ insurance policy and state that the service contract holder is entitled to apply directly to the reimbursement insurance company.

(3) Service contracts not insured under a reimbursement insurance policy under RCW 48.110.050(2)(a) and 48.110.060 shall contain a statement in substantially the following form: "Obligations of the service contract provider

under this contract are backed by the full faith and credit of the service contract provider."

(4) Service contracts shall state the name and address of the service contract provider and shall identify any administrator if different from the service contract provider, the service contract seller, and the service contract holder to the extent that the name of the service contract holder has been furnished by the service contract holder. The identities of such parties are not required to be preprinted on the service contract and may be added to the service contract at the time of sale.

(5) Service contracts shall state the purchase price of the service contract and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale.

(6) Service contracts shall state the procedure to obtain service or to file a claim, including but not limited to the procedures for obtaining prior approval for repair work, the toll-free telephone number if prior approval is necessary for service, and the procedure for obtaining emergency repairs performed outside of normal business hours or provide for twenty-four-hour telephone assistance.

(7) Service contracts shall state the existence of any deductible amount, if applicable.

(8) Service contracts shall specify the merchandise, parts, and services to be provided and any limitations, exceptions, or exclusions.

(9) Service contracts shall state any restrictions governing the transferability of the service contract, if applicable.

(10) Service contracts shall state the terms, restrictions, or conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the service contract provider or by the service contract holder, which rights can be no more restrictive than provided in RCW 48.110.050(3). The service contract provider of the service contract shall mail a written notice to the service contract holder at the last known address of the service contract holder contained in the records of the service contract provider at least twenty-one days prior to cancellation by the service contract provider. The notice shall state the effective date of the cancellation and the true and actual reason for the cancellation.

(11) Service contracts shall set forth the obligations and duties of the service contract holder, including but not limited to the duty to protect against any further damage and any requirement to follow owner's manual instructions.

(12) Service contracts shall state whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

(13) Service contracts shall state any exclusions of coverage.

(14) Service contracts shall not contain a provision which requires that any civil action brought in connection with the service contract must be brought in the courts of a jurisdiction other than this state. Service contracts that authorize binding arbitration to resolve claims or disputes (~~may~~) must allow for arbitration proceedings to be held at a location in closest proximity to the service contract holder's permanent residence.

This section does not apply to service contracts on motor vehicles or to protection product guarantees.

**Sec. 9.** RCW 48.110.080 and 1999 c 112 s 9 are each amended to read as follows:

(1) A service contract provider or protection product guarantee provider shall not use in its name the words insurance, casualty, guaranty, surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or to the name of any other service contract provider or protection product guarantee provider. This subsection does not apply to a company that was using any of the prohibited language in its name prior to January 1, 1999. However, a company using the prohibited language in its name shall conspicuously disclose in its service contracts or protection product guarantees the following statement: "This agreement is not an insurance contract."

(2) Every service contract provider or protection product guarantee provider shall conduct its business in its own legal name, unless the commissioner has approved the use of another name.

(3) A service contract provider or protection product guarantee provider or ~~((its))~~ their representatives shall not in ~~((its))~~ their service contracts or protection product guarantees or literature make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted.

(4) A person, such as a bank, savings and loan association, lending institution, manufacturer, or seller shall not require the purchase of a service contract or protection product as a condition of a loan or a condition for the sale of any property.

**Sec. 10.** RCW 48.110.090 and 1999 c 112 s 10 are each amended to read as follows:

(1) The service contract provider or protection product guarantee provider shall keep accurate accounts, books, and records concerning transactions regulated under this chapter.

(2) The service contract provider's or protection product guarantee provider's accounts, books, and records shall include the following:

(a) Copies of each type of service contract or protection product guarantees offered, issued, or sold;

(b) The name and address of each service contract holder or protection product guarantee holder, to the extent that the name and address have been furnished by the service contract holder or protection product guarantee holder;

(c) A list of the locations where the service contracts or protection products are marketed, sold, or offered for sale; and

(d) Written claim files that contain at least the dates, amounts, and descriptions of claims related to the service contracts or protection products.

(3) Except as provided in subsection (5) of this section, the service contract provider or protection product guarantee provider shall retain all records required to be maintained by subsection (1) of this section for at least six years after the specified coverage has expired.

(4) The records required under this chapter may be, but are not required to be, maintained on a computer disk or other recordkeeping technology. If the records are maintained in other than hard copy, the records shall be capable of duplication to legible hard copy.

(5) A service contract provider or protection product guarantee provider discontinuing business in this state shall maintain its records until it furnishes the commissioner satisfactory proof that it has discharged all obligations to service contract holders or protection product guarantee holders in this state.

**Sec. 11.** RCW 48.110.100 and 1999 c 112 s 11 are each amended to read as follows:

As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination in accordance with RCW 48.18.290 has been given to the service contract provider or protection product guarantee provider and has been delivered to the commissioner. The termination of a reimbursement insurance policy does not reduce the issuer's responsibility for service contracts issued by service contract providers or protection product guarantees issued by protection product guarantee providers prior to the effective date of the termination.

**Sec. 12.** RCW 48.110.110 and 1999 c 112 s 12 are each amended to read as follows:

(1) Service contract providers or protection product guarantee providers are considered to be the agent of the insurer which issued the reimbursement insurance policy for purposes of obligating the insurer to service contract holders or protection product guarantee holders in accordance with the service contract or protection product guarantee holders and this chapter. Payment of the provider fee by the consumer to the service contract seller, service contract provider, or administrator or payment of consideration for the protection product to the protection product seller constitutes payment by the consumer to the service contract provider or protection product guarantee provider and to the insurer which issued the reimbursement insurance policy. In cases where a service contract provider or protection product guarantee provider is acting as an administrator and enlists other service contract providers or protection product guarantee providers, the service contract provider or protection product guarantee provider acting as the administrator shall notify the insurer of the existence and identities of the other service contract providers or protection product guarantee providers.

(2) (~~Chapter 112, Laws of 1999~~) This chapter does not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a service contract provider or protection product guarantee provider if the issuer pays or is obligated to pay the service contract holder or protection product guarantee holder sums that the service contract provider or protection product guarantee provider was obligated to pay under the provisions of the service contract or protection product guarantee.

**Sec. 13.** RCW 48.110.120 and 1999 c 112 s 13 are each amended to read as follows:

(1) The commissioner may conduct investigations of service contract providers or protection product guarantee providers, administrators, service contract sellers or protection product sellers, insurers, and other persons to enforce this chapter and protect service contract holders or protection product guarantee holders in this state. Upon request of the commissioner, the service contract provider or protection product guarantee provider shall make all accounts, books, and records concerning service contracts or protection products



offered, issued, or sold by the service contract provider or protection product guarantee provider available to the commissioner which are necessary to enable the commissioner to determine compliance or noncompliance with this chapter.

(2) The commissioner may take actions under RCW 48.02.080 or 48.04.050 which are necessary or appropriate to enforce this chapter and the commissioner's rules and orders, and to protect service contract holders or protection product guarantee holders in this state.

**Sec. 14.** RCW 48.110.130 and 1999 c 112 s 14 are each amended to read as follows:

(1) The commissioner may, subject to chapter 48.04 RCW, deny, suspend, or revoke the registration of a service contract provider or protection product guarantee provider if the commissioner finds that the service contract provider or protection product guarantee provider:

(a) Has violated this chapter or the commissioner's rules and orders;

(b) Has refused to be investigated or to produce its accounts, records, and files for investigation, or if any of its officers have refused to give information with respect to its affairs or refused to perform any other legal obligation as to an investigation, when required by the commissioner;

(c) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused service contract holders or protection product guarantee holders to accept less than the amount due them or caused service contract holders or protection product guarantee holders to employ attorneys or bring suit against the service contract provider or protection product guarantee provider to secure full payment or settlement of claims;

(d) Is affiliated with or under the same general management or interlocking directorate or ownership as another service contract provider or protection product guarantee provider which unlawfully transacts business in this state without having a registration;

(e) At any time fails to meet any qualification for which issuance of the registration could have been refused had such failure then existed and been known to the commissioner;

(f) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony;

(g) Is under suspension or revocation in another state with respect to its service contract business or protection product business;

(h) Has made a material misstatement in its application for registration;

(i) Has obtained or attempted to obtain a registration through misrepresentation or fraud;

(j) Has, in the transaction of business under its registration, used fraudulent, coercive, or dishonest practices; ((~~or~~))

(k) Has failed to pay any judgment rendered against it in this state regarding a service contract or protection product guarantee within sixty days after the judgment has become final; or

(l) Has failed to respond promptly to any inquiry from the insurance commissioner relative to service contract or protection product business. A lack of response within fifteen business days from receipt of an inquiry is untimely. A response must be in writing, unless otherwise indicated in the inquiry.

(2) The commissioner may, without advance notice or hearing thereon, immediately suspend the registration of a service contract provider or protection product guarantee provider if the commissioner finds that any of the following circumstances exist:

(a) The provider is insolvent;

(b) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the service contract provider or protection product guarantee provider has been commenced in any state; or

(c) The financial condition or business practices of the service contract provider or protection product guarantee provider otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this state.

(3) If the commissioner finds that grounds exist for the suspension or revocation of a registration issued under this chapter, the commissioner may, in lieu of suspension or revocation, impose a fine upon the service contract provider or protection product guarantee provider in an amount not more than two thousand dollars per violation.

**Sec. 15.** RCW 48.110.140 and 1999 c 112 s 15 are each amended to read as follows:

The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this chapter are not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act or practice in the conduct of trade or commerce and an unfair method of competition, as specifically contemplated by RCW 19.86.020, and is a violation of the consumer protection act, chapter 19.86 RCW. Any service contract holder or protection product guarantee holder injured as a result of a violation of a provision of this chapter shall be entitled to maintain an action pursuant to chapter 19.86 RCW against the service contract provider or protection product guarantee provider and the insurer issuing the applicable service contract or protection product guarantee reimbursement (~~(insurance))~~ insurance policy and shall be entitled to all of the rights and remedies afforded by that chapter.

**Sec. 16.** RCW 48.110.900 and 1999 c 112 s 17 are each amended to read as follows:

This chapter applies to all service contracts, other than on motor vehicles, sold or offered for sale ninety or more days after July 25, 1999. This chapter applies to all service contracts on motor vehicles and protection products sold or offered for sale after September 30, 2006.

**NEW SECTION. Sec. 17.** A new section is added to chapter 48.110 RCW to read as follows:

(1) This section applies to protection product guarantee providers.

(2) A person shall not act as, or offer to act as, or hold himself or herself out to be a protection product guarantee provider in this state, nor may a protection product be sold to a consumer in this state, unless the protection product guarantee provider has:

(a) A valid registration as a protection product guarantee provider issued by the commissioner; and

(b) Either demonstrated its financial responsibility or assured the faithful performance of the protection product guarantee provider's obligations to its protection product guarantee holders by insuring all protection product guarantees under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one.

(3) Applicants to be a protection product guarantee provider shall make an application to the commissioner upon a form to be furnished by the commissioner. The application shall include or be accompanied by the following information and documents:

(a) The names of the protection product guarantee provider's executive officer or officers directly responsible for the protection product guarantee provider's protection product guarantee business and their biographical affidavits on a form prescribed by the commissioner;

(b) The name, address, and telephone number of any administrators designated by the protection product guarantee provider to be responsible for the administration of protection product guarantees in this state;

(c) A copy of the protection product guarantee reimbursement insurance policy or policies;

(d) A copy of each protection product guarantee the protection product guarantee provider proposes to use in this state;

(e) Any other pertinent information required by the commissioner; and

(f) A nonrefundable application fee of two hundred fifty dollars.

(4) The applicant shall appoint the commissioner as its attorney to receive service of legal process in any action, suit, or proceeding in any court. This appointment is irrevocable and shall bind the protection product guarantee provider or any successor in interest, shall remain in effect as long as there is in force in this state any protection product guarantee or any obligation arising therefrom related to residents of this state, and shall be processed in accordance with RCW 48.05.210.

(5) The commissioner may refuse to issue a registration if the commissioner determines that the protection product guarantee provider, or any individual responsible for the conduct of the affairs of the protection product guarantee provider under subsection (3)(a) of this section, is not competent, trustworthy,

financially responsible, or has had a license as a protection product guarantee provider or similar license denied or revoked for cause by any state.

(6) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the protection product guarantee provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the protection product guarantee provider and payment of a fee of two hundred fifty dollars. If not so renewed, the registration expires on the June 30th next preceding.

(7) A protection product guarantee provider shall keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within thirty days after the end of the month in which the change or addition occurs.

**NEW SECTION. Sec. 18.** A new section is added to chapter 48.110 RCW to read as follows:

(1) This section applies to service contracts on motor vehicles.

(2) Service contracts shall not be issued, sold, or offered for sale in this state or sold to consumers in this state unless:

(a) The service contract provider has either demonstrated its financial responsibility or assured the faithful performance of the service contract provider's obligations to its service contract holders by insuring all service contracts under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one;

(b) The service contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under the reimbursement insurance policy, the name and address of the issuer of the reimbursement insurance policy, the applicable policy number, and the means by which a service contract holder may file a claim under the policy;

(c) The service contract conspicuously and unambiguously states the name and address of the service contract provider and identifies any administrator if different from the service contract provider, the service contract seller, and the service contract holder. The identity of the service contract seller and the service

contract holder are not required to be preprinted on the service contract and may be added to the service contract at the time of sale;

(d) The service contract states the purchase price of the service contract and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale;

(e) The contract contains a conspicuous statement that has been initialed by the service contract holder and discloses:

(i) Any material conditions that the service contract holder must meet to maintain coverage under the contract including, but not limited to, any maintenance schedule to which the service contract holder must adhere, any requirement placed on the service contract holder for documenting repair or maintenance work, any duty to protect against any further damage, and any procedure to which the service contract holder must adhere for filing claims;

(ii) The work and parts covered by the contract;

(iii) Any time or mileage limitations;

(iv) That the implied warranty of merchantability on the motor vehicle is not waived if the contract has been purchased within ninety days of the purchase date of the motor vehicle from a provider or service contract seller who also sold the motor vehicle covered by the contract;

(v) Any exclusions of coverage; and

(vi) The contract holder's right to return the contract for a refund, which right can be no more restrictive than provided for in subsection (4) of this section;

(f) The service contract states the procedure to obtain service or to file a claim, including but not limited to the procedures for obtaining prior approval for repair work, the toll-free telephone number if prior approval is necessary for service, and the procedure for obtaining emergency repairs performed outside of normal business hours or for obtaining twenty-four-hour telephone assistance;

(g) The service contract states the existence of any deductible amount, if applicable;

(h) The service contract states any restrictions governing the transferability of the service contract, if applicable; and

(i) The service contract states whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

(3) Service contracts shall not contain a provision which requires that any civil action brought in connection with the service contract must be brought in the courts of a jurisdiction other than this state. Service contracts that authorize binding arbitration to resolve claims or disputes must allow for arbitration proceedings to be held at a location in closest proximity to the service contract holder's permanent residence.

(4)(a) At a minimum, every provider shall permit the service contract holder to return the contract within thirty days of its purchase if no claim has been made under the contract, and shall refund to the holder the full purchase price of the contract unless the service contract holder returns the contract ten or more days after its purchase, in which case the provider may charge a cancellation fee not exceeding twenty-five dollars.

(b) If no claim has been made and a contract holder returns the contract after thirty days, the provider shall refund the purchase price pro rata based upon

either elapsed time or mileage computed from the date the contract was purchased and the mileage on that date, less a cancellation fee not exceeding twenty-five dollars.

(c) A ten percent penalty shall be added to any refund that is not paid within thirty days of return of the contract to the provider.

(d) If a contract holder returns the contract under this subsection, the contract is void from the beginning and the parties are in the same position as if no contract had been issued.

(e) If a service contract holder returns the contract in accordance with this section, the insurer issuing the reimbursement insurance policy covering the contract shall refund to the provider the full premium by the provider for the contract if canceled within thirty days or a pro rata refund if canceled after thirty days.

(5) A service contract provider shall not deny a claim for coverage based upon the service contract holder's failure to properly maintain the vehicle, unless the failure to maintain the vehicle involved the failed part or parts.

(6) A contract provider has only sixty days from the date of the sale of the service contract to the holder to determine whether or not the vehicle qualifies under the provider's program for that vehicle. After sixty days the vehicle qualifies for the service contract that was issued and the service contract provider may not cancel the contract and is fully obligated under the terms of the contract sold to the service contract holder.

NEW SECTION. Sec. 19. A new section is added to chapter 48.110 RCW to read as follows:

(1) Except for service contract providers or protection product guarantee providers, persons marketing, selling, or offering to sell service contracts or protection products for providers are exempt from the registration requirements of RCW 48.110.030.

(2) The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of service contracts or protection products by service contract providers or protection product guarantee providers and related service contract or protection product sellers, administrators, and other persons complying with this chapter are exempt from the other provisions of this title, except chapters 48.04 and 48.30 RCW and as otherwise provided in this chapter.

NEW SECTION. Sec. 20. A new section is added to chapter 48.110 RCW to read as follows:

(1) If the service contract provider or protection product guarantee provider is using reimbursement insurance policy to satisfy the requirements of RCW 48.110.050(2)(a) or section 17(2)(b) or 18(2)(a) of this act, then the reimbursement insurance policy shall be filed with and approved by the commissioner in accordance with and pursuant to the requirements of chapter 48.18 RCW.

(2) All service contracts forms covering motor vehicles must be filed with and approved by the commissioner prior to the service contract forms being used, issued, delivered, sold, or marketed in this state or to residents of this state.

(3) All service contracts forms covering motor vehicles being used, issued, delivered, sold, or marketed in this state or to residents of this state by motor vehicle manufacturers or import distributors or wholly owned subsidiaries

thereof must be filed with the commissioner for approval within sixty days after the motor vehicle manufacturer or import distributor or wholly owned subsidiary thereof begins using the service contracts forms.

(4) The commissioner shall disapprove any motor vehicle service contract form if:

(a) The form is in any respect in violation of, or does not comply with, this chapter or any applicable order or regulation of the commissioner issued under this chapter;

(b) The form contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions;

(c) The form has any title, heading, or other indication of its provisions that is misleading; or

(d) The purchase of the contract is being solicited by deceptive advertising.

**NEW SECTION. Sec. 21.** (1) RCW 48.110.030 (2) (a) and (b), (3), and (4), 48.110.040, 48.110.060, 48.110.100, 48.110.110, section 18 (2)(a) and (b) and (4)(e) of this act, and section 20 (1) and (2) of this act do not apply to motor vehicle service contracts issued by a motor vehicle manufacturer or import distributor covering vehicles manufactured or imported by the motor vehicle manufacturer or import distributor.

(2) RCW 48.110.030(2)(c) does not apply to a publicly traded motor vehicle manufacturer or import distributor.

(3) RCW 48.110.030 (2) (a) through (c), (3), and (4), 48.110.040, and section 20(2) of this act do not apply to wholly owned subsidiaries of motor vehicle manufacturers or import distributors.

(4) The adoption of this act does not imply that a vehicle protection product warranty was insurance prior to October 1, 2006.

**NEW SECTION. Sec. 22.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 23.** The following acts or parts of acts are each repealed:

(1) RCW 48.96.005 (Purpose) and 1990 c 239 s 2;

(2) RCW 48.96.010 (Definitions) and 1987 c 99 s 1;

(3) RCW 48.96.020 (Reimbursement policy required for sale of service contract) and 1987 c 99 s 2;

(4) RCW 48.96.025 (Reimbursement policy—Insurer's responsibility) and 1990 c 239 s 3;

(5) RCW 48.96.030 (Reimbursement policy—Required provisions) and 1990 c 239 s 6 & 1987 c 99 s 3;

(6) RCW 48.96.040 (Service contract—Required statements) and 1990 c 239 s 7 & 1987 c 99 s 4;

(7) RCW 48.96.045 (Service contract—Notice to holder) and 1990 c 239 s 4;

(8) RCW 48.96.047 (Service contract—Holder's right to return) and 1990 c 239 s 5;

(9) RCW 48.96.050 (Service contracts—Excluded parties) and 1990 c 239 s 8 & 1987 c 99 s 5;

- (10) RCW 48.96.060 (Noncompliance as unfair competition, trade practice—Remedies) and 1990 c 239 s 9 & 1987 c 99 s 6;
- (11) RCW 48.96.900 (Application of chapter—Date) and 1987 c 99 s 7; and
- (12) RCW 48.96.901 (Effective date—1990 c 239 §§ 2-10) and 1990 c 239 s 11.

NEW SECTION. Sec. 24. This act takes effect October 1, 2006.

Passed by the House March 6, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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**CHAPTER 275**

[Substitute House Bill 2569]

PROPERTY TAX DEFERRAL PROGRAM—INTEREST RATE

AN ACT Relating to the property tax deferral program; amending RCW 84.38.100; and creating new sections.

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

**Sec. 1.** RCW 84.38.100 and 2000 c 103 s 26 are each amended to read as follows:

Whenever a person's special assessment and/or real property tax obligation is deferred under the provisions of this chapter, the amount deferred and required to be paid pursuant to RCW 84.38.120 shall become a lien in favor of the state upon his or her property and shall have priority as provided in chapters 35.50 and 84.60 RCW: PROVIDED, That the interest of a mortgage or purchase contract holder who is required to cosign a declaration of deferral under RCW 84.38.090, shall have priority to said deferred lien. This lien may accumulate up to eighty percent of the amount of the claimant's equity value in said property and shall bear interest at the rate of ~~((eight))~~ five percent per year from the time it could have been paid before delinquency until said obligation is paid: PROVIDED, That when taxes are deferred as provided in RCW 84.64.050, the amount shall bear interest at the rate of ~~((eight))~~ five percent per year from the date the declaration is filed until the obligation is paid. In the case of a mobile home, the department of licensing shall show the state's lien on the certificate of ownership for the mobile home. In the case of all other property, the department of revenue shall file a notice of the deferral with the county recorder or auditor.

NEW SECTION. Sec. 2. This act only applies to property tax deferrals granted under RCW 84.38.040 after the effective date of this act for taxes levied for collection in 2007 and thereafter.

NEW SECTION. Sec. 3. The legislature finds that the intent of the property tax deferral program is to assist retired persons in maintaining their dignity and a reasonable standard of living by residing in their own homes, providing for their own needs, and managing their own affairs without requiring assistance from public welfare programs. The department of revenue shall review the adequacy and appropriateness of the interest rate provided in RCW 84.38.100 in relation to these objectives. The department shall report its



findings to the finance committee of the house of representatives and the ways and means committee of the senate by December 1, 2012.

Passed by the House February 4, 2006.

Passed by the Senate March 8, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 276

[Substitute House Bill 2678]

### POLLUTION LIABILITY INSURANCE AGENCY

AN ACT Relating to the pollution liability insurance agency; amending RCW 70.148.020, 70.148.050, 70.148.900, 70.149.900, and 82.23A.902; repealing 2000 c 16 s 4 and 1998 c 245 s 178 (uncodified); repealing 2000 c 16 s 5 and 1997 c 8 s 3 (uncodified); repealing 2005 c 428 s 4 (uncodified); and providing an expiration date.

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

**Sec. 1.** RCW 70.148.020 and 2005 c 518 s 942 are each amended to read as follows:

(1) The pollution liability insurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the pollution liability insurance and underground storage tank community assistance programs. Expenditures for payment of administrative and operating costs of the agency are subject to the allotment procedures under chapter 43.88 RCW and may be made only after appropriation by statute. No appropriation is required for other expenditures from the account.

(2) Each calendar quarter, the director shall report to the insurance commissioner the loss and surplus reserves required for the calendar quarter. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter.

(3) Each calendar quarter the director shall determine the amount of reserves necessary to fund commitments made to provide financial assistance under RCW 70.148.130 to the extent that the financial assistance reserves do not jeopardize the operations and liabilities of the pollution liability insurance program. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter. The director may immediately establish an initial financial assistance reserve of five million dollars from available revenues. The director may not expend more than fifteen million dollars for the financial assistance program.

(4) During the 2005-2007 fiscal biennium, the legislature may transfer from the pollution liability insurance program trust account to the state general fund such amounts as reflect the excess fund balance of the account.

(5) This section expires June 1, ~~((2007))~~ 2013.

**Sec. 2.** RCW 70.148.050 and 1998 c 245 s 115 are each amended to read as follows:

The director has the following powers and duties:

(1) To design and from time to time revise a reinsurance contract providing coverage to an insurer meeting the requirements of this chapter. Before initially entering into a reinsurance contract, the director shall prepare an actuarial report describing the various reinsurance methods considered by the director and describing each method's costs. In designing the reinsurance contract the director shall consider common insurance industry reinsurance contract provisions and shall design the contract in accordance with the following guidelines:

(a) The contract shall provide coverage to the insurer for the liability risks of owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action that are underwritten by the insurer.

(b) In the event of an insolvency of the insurer, the reinsurance contract shall provide reinsurance payable directly to the insurer or to its liquidator, receiver, or successor on the basis of the liability of the insurer in accordance with the reinsurance contract. In no event may the program be liable for or provide coverage for that portion of any covered loss that is the responsibility of the insurer whether or not the insurer is able to fulfill the responsibility.

(c) The total limit of liability for reinsurance coverage shall not exceed one million dollars per occurrence and two million dollars annual aggregate for each policy underwritten by the insurer less the ultimate net loss retained by the insurer as defined and provided for in the reinsurance contract.

(d) Disputes between the insurer and the insurance program shall be settled through arbitration.

(2) To design and implement a structure of periodic premiums due the director from the insurer that takes full advantage of revenue collections and projected revenue collections to ensure affordable premiums to the insured consistent with sound actuarial principles.

(3) To periodically review premium rates for reinsurance to determine whether revenue appropriations supporting the program can be reduced without substantially increasing the insured's premium costs.

(4) To solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action.

(5) To monitor the activities of the insurer to ensure compliance with this chapter and protect the program from excessive loss exposure resulting from claims mismanagement by the insurer.

(6) To monitor the success of the program and periodically make such reports and recommendations to the legislature as the director deems appropriate, and to annually publish a financial report on the pollution liability insurance program trust account showing, among other things, administrative and other expenses paid from the fund.

(7) To annually report the financial and loss experience of the insurer as to policies issued under the program and the financial and loss experience of the program to the legislature.

~~(8) To evaluate the effects of the program upon the private market for liability insurance for owners and operators of underground storage tanks and make recommendations to the legislature on the necessity for continuing the program to ensure availability of such coverage.~~

~~(9))~~) To enter into contracts with public and private agencies to assist the director in his or her duties to design, revise, monitor, and evaluate the program and to provide technical or professional assistance to the director.

~~((10))~~ (9) To examine the affairs, transactions, accounts, records, documents, and assets of insurers as the director deems advisable.

**Sec. 3.** RCW 70.148.900 and 2000 c 16 s 1 are each amended to read as follows:

This chapter shall expire June 1, ~~((2007))~~ 2013.

**Sec. 4.** RCW 70.149.900 and 2000 c 16 s 2 are each amended to read as follows:

Sections 1 through 11 of this act shall expire June 1, ~~((2007))~~ 2013.

**Sec. 5.** RCW 82.23A.902 and 2000 c 16 s 3 are each amended to read as follows:

This chapter shall expire on June 1, ~~((2007))~~ 2013, coinciding with the expiration of chapter 70.148 RCW.

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

- (1) 2000 c 16 s 4 & 1998 c 245 s 178 (uncodified);
- (2) 2000 c 16 s 5 & 1997 c 8 s 3 (uncodified); and
- (3) 2005 c 428 s 4 (uncodified).

Passed by the House March 6, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 277

[House Bill 2704]

### ORGANIZED RETAIL THEFT

AN ACT Relating to organized retail theft; amending RCW 9A.56.010; reenacting and amending RCW 9A.82.010 and 9.94A.515; adding new sections to chapter 9A.56 RCW; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of theft with the intent to resell if he or she commits theft of property with a value of at least two hundred fifty dollars from a mercantile establishment with the intent to resell the property for monetary or other gain.

(2) The person is guilty of theft with the intent to resell in the first degree if the property has a value of one thousand five hundred dollars or more. Theft with the intent to resell in the first degree is a class B felony.

(3) The person is guilty of theft with the intent to resell in the second degree if the property has a value of at least two hundred fifty dollars, but less than one thousand five hundred dollars. Theft with the intent to resell in the second degree is a class C felony.

(4) For purposes of this section, a series of thefts committed by the same person from one or more mercantile establishments over a period of one hundred eighty days may be aggregated in one count and the sum of the value of all the property shall be the value considered in determining the degree of the theft with the intent to resell involved. Theft committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.

**NEW SECTION. Sec. 2.** A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of organized retail theft if he or she:

(a) Commits theft of property with a value of at least two hundred fifty dollars from a mercantile establishment with an accomplice; or

(b) Possesses stolen property, as defined in RCW 9A.56.140, with a value of at least two hundred fifty dollars from a mercantile establishment with an accomplice.

(2) A person is guilty of organized retail theft in the first degree if the property stolen or possessed has a value of one thousand five hundred dollars or more. Organized retail theft in the first degree is a class B felony.

(3) A person is guilty of organized retail theft in the second degree if the property stolen or possessed has a value of at least two hundred fifty dollars, but less than one thousand five hundred dollars. Organized retail theft in the second degree is a class C felony.

(4) For purposes of this section, a series of thefts committed by the same person from one or more mercantile establishments over a period of one hundred eighty days may be aggregated in one count and the sum of the value of all the property shall be the value considered in determining the degree of the organized retail theft involved. Theft committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.

**NEW SECTION. Sec. 3.** A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person commits retail theft with extenuating circumstances if he or she commits theft of property from a mercantile establishment with one of the following extenuating circumstances:

(a) To facilitate the theft, the person leaves the mercantile establishment through a designated emergency exit;

(b) The person was, at the time of the theft, in possession of an item, article, implement, or device designed to overcome security systems including, but not limited to, lined bags or tag removers; or

(c) The person committed theft at three or more separate and distinct mercantile establishments within a one hundred eighty-day period.

(2) A person is guilty of retail theft with extenuating circumstances in the first degree if the theft involved constitutes theft in the first degree. Retail theft with extenuating circumstances in the first degree is a class B felony.

(3) A person is guilty of retail theft with extenuating circumstances in the second degree if the theft involved constitutes theft in the second degree. Retail theft with extenuating circumstances in the second degree is a class C felony.

(4) A person is guilty of retail theft with extenuating circumstances in the third degree if the theft involved constitutes theft in the third degree. Retail theft with extenuating circumstances in the third degree is a class C felony.

**Sec. 4.** RCW 9A.56.010 and 2002 c 97 s 1 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Access device" means any card, plate, code, account number, or other means of account access that can be used alone or in conjunction with another access device to obtain money, goods, services, or anything else of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument;

(2) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(3) "Beverage crate" means a plastic or metal box-like container used by a manufacturer or distributor in the transportation or distribution of individually packaged beverages to retail outlets, and affixed with language stating "property of . . . .," "owned by . . . .," or other markings or words identifying ownership;

(4) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(5) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed.

(6) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or computer programs;

(7) "Merchandise pallet" means a wood or plastic carrier designed and manufactured as an item on which products can be placed before or during transport to retail outlets, manufacturers, or contractors, and affixed with language stating "property of . . .," "owned by . . .," or other markings or words identifying ownership;

(8) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(9) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(10) "Parking area" means a parking lot or other property provided by retailers for use by a customer for parking an automobile or other vehicle;

(11) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(12) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(13) "Shopping cart" means a basket mounted on wheels or similar container generally used in a retail establishment by a customer for the purpose of transporting goods of any kind;

(14) "Stolen" means obtained by theft, robbery, or extortion;

(15) "Subscription television service" means cable or encrypted video and related audio and data services intended for viewing on a home television by authorized members of the public only, who have agreed to pay a fee for the service. Subscription services include but are not limited to those video services presently delivered by coaxial cable, fiber optic cable, terrestrial microwave, television broadcast, and satellite transmission;

(16) "Telecommunication device" means (a) any type of instrument, device, machine, or equipment that is capable of transmitting or receiving telephonic or electronic communications; or (b) any part of such an instrument, device, machine, or equipment, or any computer circuit, computer chip, electronic mechanism, or other component, that is capable of facilitating the transmission or reception of telephonic or electronic communications;

(17) "Telecommunication service" includes any service other than subscription television service provided for a charge or compensation to facilitate the transmission, transfer, or reception of a telephonic communication or an electronic communication;

(18) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be

deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Except as provided in sections 1(4) and 2(4) of this act, whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a criminal episode or a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

For purposes of this subsection, "criminal episode" means a series of thefts committed by the same person from one or more mercantile establishments on three or more occasions within a five-day period.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved. Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars;

(19) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another;

(b) Having any property or services in one's possession, custody or control as bailee, factor, lessee, pledgee, renter, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his or her own use or to the use of any person other than the true owner or person entitled thereto; or

(c) Having any property or services in one's possession, custody, or control as partner, to secrete, withhold, or appropriate the same to his or her use or to the use of any person other than the true owner or person entitled thereto, where the use is unauthorized by the partnership agreement.

**Sec. 5.** RCW 9A.82.010 and 2003 c 119 s 6, 2003 c 113 s 3, and 2003 c 53 s 85 are each reenacted and amended to read as follows:

Unless the context requires the contrary, the definitions in this section apply throughout this chapter.

(1)(a) "Beneficial interest" means:

(i) The interest of a person as a beneficiary under a trust established under Title 11 RCW in which the trustee for the trust holds legal or record title to real property;

(ii) The interest of a person as a beneficiary under any other trust arrangement under which a trustee holds legal or record title to real property for the benefit of the beneficiary; or

(iii) The interest of a person under any other form of express fiduciary arrangement under which one person holds legal or record title to real property for the benefit of the other person.

(b) "Beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in a general partnership or limited partnership.

(c) A beneficial interest is considered to be located where the real property owned by the trustee is located.

(2) "Control" means the possession of a sufficient interest to permit substantial direction over the affairs of an enterprise.

(3) "Creditor" means a person making an extension of credit or a person claiming by, under, or through a person making an extension of credit.

(4) "Criminal profiteering" means any act, including any anticipatory or completed offense, committed for financial gain, that is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable as a felony and by imprisonment for more than one year, regardless of whether the act is charged or indicted, as any of the following:

- (a) Murder, as defined in RCW 9A.32.030 and 9A.32.050;
- (b) Robbery, as defined in RCW 9A.56.200 and 9A.56.210;
- (c) Kidnapping, as defined in RCW 9A.40.020 and 9A.40.030;
- (d) Forgery, as defined in RCW 9A.60.020 and 9A.60.030;
- (e) Theft, as defined in RCW 9A.56.030, 9A.56.040, 9A.56.060, 9A.56.080, and 9A.56.083;
- (f) Unlawful sale of subscription television services, as defined in RCW 9A.56.230;
- (g) Theft of telecommunication services or unlawful manufacture of a telecommunication device, as defined in RCW 9A.56.262 and 9A.56.264;
- (h) Child selling or child buying, as defined in RCW 9A.64.030;
- (i) Bribery, as defined in RCW 9A.68.010, 9A.68.020, 9A.68.040, and 9A.68.050;
- (j) Gambling, as defined in RCW 9.46.220 and 9.46.215 and 9.46.217;
- (k) Extortion, as defined in RCW 9A.56.120 and 9A.56.130;
- (l) Unlawful production of payment instruments, unlawful possession of payment instruments, unlawful possession of a personal identification device, unlawful possession of fictitious identification, or unlawful possession of instruments of financial fraud, as defined in RCW 9A.56.320;
- (m) Extortionate extension of credit, as defined in RCW 9A.82.020;
- (n) Advancing money for use in an extortionate extension of credit, as defined in RCW 9A.82.030;
- (o) Collection of an extortionate extension of credit, as defined in RCW 9A.82.040;
- (p) Collection of an unlawful debt, as defined in RCW 9A.82.045;
- (q) Delivery or manufacture of controlled substances or possession with intent to deliver or manufacture controlled substances under chapter 69.50 RCW;
- (r) Trafficking in stolen property, as defined in RCW 9A.82.050;
- (s) Leading organized crime, as defined in RCW 9A.82.060;
- (t) Money laundering, as defined in RCW 9A.83.020;



(u) Obstructing criminal investigations or prosecutions in violation of RCW 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.72.130, 9A.76.070, or 9A.76.180;

(v) Fraud in the purchase or sale of securities, as defined in RCW 21.20.010;

(w) Promoting pornography, as defined in RCW 9.68.140;

(x) Sexual exploitation of children, as defined in RCW 9.68A.040, 9.68A.050, and 9.68A.060;

(y) Promoting prostitution, as defined in RCW 9A.88.070 and 9A.88.080;

(z) Arson, as defined in RCW 9A.48.020 and 9A.48.030;

(aa) Assault, as defined in RCW 9A.36.011 and 9A.36.021;

(bb) Assault of a child, as defined in RCW 9A.36.120 and 9A.36.130;

(cc) A pattern of equity skimming, as defined in RCW 61.34.020;

(dd) Commercial telephone solicitation in violation of RCW 19.158.040(1);

(ee) Trafficking in insurance claims, as defined in RCW 48.30A.015;

(ff) Unlawful practice of law, as defined in RCW 2.48.180;

(gg) Commercial bribery, as defined in RCW 9A.68.060;

(hh) Health care false claims, as defined in RCW 48.80.030;

(ii) Unlicensed practice of a profession or business, as defined in RCW 18.130.190(7);

(jj) Improperly obtaining financial information, as defined in RCW 9.35.010;

(kk) Identity theft, as defined in RCW 9.35.020;

(ll) Unlawful shipment of cigarettes in violation of RCW 70.155.105(6) (a) or (b); ~~((o))~~

(mm) Unlawful shipment of cigarettes in violation of RCW 82.24.110(2);

(nn) Theft with the intent to resell, as defined in section 1 of this act; or

(oo) Organized retail theft, as defined in section 2 of this act.

(5) "Dealer in property" means a person who buys and sells property as a business.

(6) "Debtor" means a person to whom an extension of credit is made or a person who guarantees the repayment of an extension of credit or in any manner undertakes to indemnify the creditor against loss resulting from the failure of a person to whom an extension is made to repay the same.

(7) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(8) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust, or other profit or nonprofit legal entity, and includes any union, association, or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(9) "Extortionate extension of credit" means an extension of credit with respect to which it is the understanding of the creditor and the debtor at the time the extension is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(10) "Extortionate means" means the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(11) "Financial institution" means any bank, trust company, savings and loan association, savings bank, mutual savings bank, credit union, or loan company under the jurisdiction of the state or an agency of the United States.

(12) "Pattern of criminal profiteering activity" means engaging in at least three acts of criminal profiteering, one of which occurred after July 1, 1985, and the last of which occurred within five years, excluding any period of imprisonment, after the commission of the earliest act of criminal profiteering. In order to constitute a pattern, the three acts must have the same or similar intent, results, accomplices, principals, victims, or methods of commission, or be otherwise interrelated by distinguishing characteristics including a nexus to the same enterprise, and must not be isolated events. However, in any civil proceedings brought pursuant to RCW 9A.82.100 by any person other than the attorney general or county prosecuting attorney in which one or more acts of fraud in the purchase or sale of securities are asserted as acts of criminal profiteering activity, it is a condition to civil liability under RCW 9A.82.100 that the defendant has been convicted in a criminal proceeding of fraud in the purchase or sale of securities under RCW 21.20.400 or under the laws of another state or of the United States requiring the same elements of proof, but such conviction need not relate to any act or acts asserted as acts of criminal profiteering activity in such civil action under RCW 9A.82.100.

(13) "Real property" means any real property or interest in real property, including but not limited to a land sale contract, lease, or mortgage of real property.

(14) "Records" means any book, paper, writing, record, computer program, or other material.

(15) "Repayment of an extension of credit" means the repayment, satisfaction, or discharge in whole or in part of a debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(16) "Stolen property" means property that has been obtained by theft, robbery, or extortion.

(17) "To collect an extension of credit" means to induce in any way a person to make repayment thereof.

(18) "To extend credit" means to make or renew a loan or to enter into an agreement, tacit or express, whereby the repayment or satisfaction of a debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or shall be deferred.

(19) "Traffic" means to sell, transfer, distribute, dispense, or otherwise dispose of stolen property to another real person, or to buy, receive, possess, or obtain control of stolen property, with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person.

(20)(a) "Trustee" means:

(i) A person acting as a trustee under a trust established under Title 11 RCW in which the trustee holds legal or record title to real property;

(ii) A person who holds legal or record title to real property in which another person has a beneficial interest; or

(iii) A successor trustee to a person who is a trustee under (a)(i) or (ii) of this subsection.

(b) "Trustee" does not mean a person appointed or acting as:

(i) A personal representative under Title 11 RCW;

(ii) A trustee of any testamentary trust;

(iii) A trustee of any indenture of trust under which a bond is issued; or

(iv) A trustee under a deed of trust.

(21) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in full or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(i) Chapter 67.16 RCW relating to horse racing;

(ii) Chapter 9.46 RCW relating to gambling;

(b) In a gambling activity in violation of federal law; or

(c) In connection with the business of lending money or a thing of value at a rate that is at least twice the permitted rate under the applicable state or federal law relating to usury.

**Sec. 6.** RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are each reenacted and amended to read as follows:

TABLE 2	
CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2))

- XI Manslaughter 1 (RCW 9A.32.060)
  - Rape 2 (RCW 9A.44.050)
  - Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
  - Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
  - Kidnapping 1 (RCW 9A.40.020)
  - Leading Organized Crime (RCW 9A.82.060(1)(a))
  - Malicious explosion 3 (RCW 70.74.280(3))
  - Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
  - Explosive devices prohibited (RCW 70.74.180)
  - Hit and Run—Death (RCW 46.52.020(4)(a))
  - Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
  - Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
  - Malicious placement of an explosive 2 (RCW 70.74.270(2))
  - Robbery 1 (RCW 9A.56.200)
  - Sexual Exploitation (RCW 9.68A.040)
  - Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
  - Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
  - Manslaughter 2 (RCW 9A.32.070)
  - Promoting Prostitution 1 (RCW 9A.88.070)

- Theft of Ammonia (RCW 69.55.010)  
Vehicular Homicide, by the operation  
of any vehicle in a reckless manner  
(RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)  
Child Molestation 2 (RCW 9A.44.086)  
Civil Disorder Training (RCW  
9A.48.120)  
Dealing in depictions of minor engaged  
in sexually explicit conduct (RCW  
9.68A.050)  
Drive-by Shooting (RCW 9A.36.045)  
Homicide by Watercraft, by disregard  
for the safety of others (RCW  
79A.60.050)  
Indecent Liberties (without forcible  
compulsion) (RCW 9A.44.100(1)  
(b) and (c))  
Introducing Contraband 1 (RCW  
9A.76.140)  
Malicious placement of an explosive 3  
(RCW 70.74.270(3))  
Negligently Causing Death By Use of a  
Signal Preemption Device (RCW  
46.37.675)  
Sending, bringing into state depictions  
of minor engaged in sexually  
explicit conduct (RCW 9.68A.060)  
Unlawful Possession of a Firearm in  
the first degree (RCW 9.41.040(1))  
Use of a Machine Gun in Commission  
of a Felony (RCW 9.41.225)  
Vehicular Homicide, by disregard for  
the safety of others (RCW  
46.61.520)
- VI Bail Jumping with Murder 1 (RCW  
9A.76.170(3)(a))  
Bribery (RCW 9A.68.010)  
Incest 1 (RCW 9A.64.020(1))  
Intimidating a Judge (RCW 9A.72.160)

- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of dependent person 1 (RCW 9A.42.060)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)

- Rendering Criminal Assistance 1  
(RCW 9A.76.070)
- Sexual Misconduct with a Minor 1  
(RCW 9A.44.093)
- Sexually Violating Human Remains  
(RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without  
Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a  
Projectile Stun Gun) (RCW  
9A.36.031(1)(h))
- Assault by Watercraft (RCW  
79A.60.060)
- Bribing a Witness/Bribe Received by  
Witness (RCW 9A.72.090,  
9A.72.100)
- Cheating 1 (RCW 9A.46.1961)
- Commercial Bribery (RCW  
9A.68.060)
- Counterfeiting (RCW 9A.16.035(4))
- Endangerment with a Controlled  
Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW  
46.52.020(4)(b))
- Hit and Run with Vessel—Injury  
Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9A.35.020(2))
- Indecent Exposure to Person Under  
Age Fourteen (subsequent sex  
offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event  
(RCW 9A.82.070)
- Malicious Harassment (RCW  
9A.36.080)
- Residential Burglary (RCW  
9A.52.025)

- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(3))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Abandonment of dependent person 2 (RCW 9A.42.070)
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)



Criminal Gang Intimidation (RCW  
9A.46.120)  
Criminal Mistreatment 2 (RCW  
9A.42.030)  
Custodial Assault (RCW 9A.36.100)  
Cyberstalking (subsequent conviction  
or threat of death) (RCW  
9.61.260(3))  
Escape 2 (RCW 9A.76.120)  
Extortion 2 (RCW 9A.56.130)  
Harassment (RCW 9A.46.020)  
Intimidating a Public Servant (RCW  
9A.76.180)  
Introducing Contraband 2 (RCW  
9A.76.150)  
Malicious Injury to Railroad Property  
(RCW 81.60.070)  
Negligently Causing Substantial Bodily  
Harm By Use of a Signal  
Preemption Device (RCW  
46.37.674)  
Organized Retail Theft 1 (section 2(2) of  
this act)  
Patronizing a Juvenile Prostitute (RCW  
9.68A.100)  
Perjury 2 (RCW 9A.72.030)  
Possession of Incendiary Device (RCW  
9.40.120)  
Possession of Machine Gun or Short-  
Barreled Shotgun or Rifle (RCW  
9.41.190)  
Promoting Prostitution 2 (RCW  
9A.88.080)  
Securities Act violation (RCW  
21.20.400)  
Tampering with a Witness (RCW  
9A.72.120)  
Telephone Harassment (subsequent  
conviction or threat of death)  
(RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

Theft with Extenuating Circumstances 1  
(section 3(2) of this act)

Theft with the Intent to Resell 1 (section  
1(2) of this act)

Trafficking in Stolen Property 2 (RCW  
9A.82.055)

Unlawful Imprisonment (RCW  
9A.40.040)

Unlawful possession of firearm in the  
second degree (RCW 9.41.040(2))

Vehicular Assault, by the operation or  
driving of a vehicle with disregard  
for the safety of others (RCW  
46.61.522)

Willful Failure to Return from Work  
Release (RCW 72.65.070)

II Computer Trespass 1 (RCW  
9A.52.110)

Counterfeiting (RCW 9.16.035(3))

Escape from Community Custody  
(RCW 72.09.310)

Health Care False Claims (RCW  
48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial  
Information (RCW 9.35.010)

Malicious Mischief 1 (RCW  
9A.48.070)

Organized Retail Theft 2 (section 2(3) of  
this act)

Possession of Stolen Property 1 (RCW  
9A.56.150)

Theft 1 (RCW 9A.56.030)

Theft of Rental, Leased, or Lease-  
purchased Property (valued at one  
thousand five hundred dollars or  
more) (RCW 9A.56.096(5)(a))

Theft with Extenuating Circumstances 2  
(section 3(3) of this act)

- Theft with the Intent to Resell 2 (section 1(3) of this act)
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(4))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of  
Financial Fraud (RCW 9A.56.320)  
Unlawful Possession of Payment  
Instruments (RCW 9A.56.320)  
Unlawful Possession of a Personal  
Identification Device (RCW  
9A.56.320)  
Unlawful Production of Payment  
Instruments (RCW 9A.56.320)  
Unlawful Trafficking in Food Stamps  
(RCW 9.91.142)  
Unlawful Use of Food Stamps (RCW  
9.91.144)  
Vehicle Prowl 1 (RCW 9A.52.095)

Passed by the House February 11, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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**CHAPTER 278**

[Substitute House Bill 2880]

**INSURANCE PREMIUM TAX**

AN ACT Relating to insurance premiums tax; amending RCW 48.14.080; creating new sections; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** The legislature finds that the insurance premiums tax is intended to be in lieu of any other tax imposed on insurers. However, insurers are not exempt from taxes on real and tangible personal property, or excise taxes on the sale, purchase, or use of such property. These provisions, enacted in 1949, have not been reviewed or altered in light of significant expansion of sales and use taxes to include taxation of many service activities. Some insurers have interpreted their obligation to pay retail sales and use taxes to be limited to those taxes imposed on the sale or use of tangible personal property. These insurers claim exemption from retail sales tax, use tax, or any other excise tax on the purchase or sale of services, such as telephone service, credit bureau services, construction services, landscape services, and repair services. Other insurers have consistently paid excise taxes imposed on these services.

The legislature further finds exempting insurers from excise taxes on the purchase or sale of services is inequitable and results from the inadvertent failure to revise insurance premiums tax statutes to be consistent with other excise tax statutes. The legislature declares its intent to require insurers to pay retail sales and use taxes on purchases of both tangible personal property or services, on the

same terms as other taxpayers. This act is intended to apply both prospectively and retrospectively.

**Sec. 2.** RCW 48.14.080 and 1998 c 312 s 1 are each amended to read as follows:

(1) As to insurers, other than title insurers and taxpayers under RCW 48.14.0201, the taxes imposed by this title shall be in lieu of all other taxes, except as otherwise provided in this section.

(2) Subsection (1) of this section does not apply with respect to:

(a) Taxes on real and tangible personal property(;;);

(b) Excise taxes on the sale, purchase ((~~or~~)), use, or possession of ((~~such~~)) (i) real property; (ii) tangible personal property(;;); (iii) extended warranties; and (iv) services; and

(c) The tax imposed in RCW 82.04.260((+2)) (10), regarding public and nonprofit hospitals.

(3) For the purposes of this section, the term "taxes" includes taxes imposed by the state or any county, city, town, municipal corporation, quasi-municipal corporation, or other political subdivision.

NEW SECTION. Sec. 3. This act applies both prospectively and retroactively.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 6, 2006.

Passed by the Senate March 8, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 279

[Engrossed Substitute House Bill 2884]

### RECLAIMED WATER

AN ACT Relating to reclaimed water; amending RCW 90.46.050, 90.46.010, 90.46.030, 90.46.040, 90.46.042, 90.46.044, 90.46.080, 90.46.090, and 90.46.100; adding a new section to chapter 90.46 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. A new section is added to chapter 90.46 RCW to read as follows:

(1) The department of ecology shall, in coordination with the department of health, adopt rules for reclaimed water use consistent with this chapter. The rules must address all aspects of reclaimed water use, including commercial and industrial uses, land applications, direct recharge, wetland discharge, surface percolation, constructed wetlands, and stream flow augmentation. The department of health shall, in coordination with the department of ecology, adopt rules for greywater reuse. The rules must also designate whether the department of ecology or the department of health will be the lead permitting or regulatory agency responsible for a particular aspect of reclaimed water use. In developing the rules, the departments of health and ecology shall amend or rescind any existing rules on reclaimed water in conflict with the new rules.

(2) All rules required to be adopted pursuant to this section must be completed no later than December 31, 2010, although the department of ecology is encouraged to adopt the final rules as soon as possible.

(3) The department of ecology must consult with the advisory committee created under RCW 90.46.050 in all aspects of rule development required under this section.

**Sec. 2.** RCW 90.46.050 and 1995 c 342 s 9 are each amended to read as follows:

The department of ~~((health))~~ ecology shall, before July 1, ~~((1995))~~ 2006, form an advisory committee, in coordination with the department of ~~((ecology))~~ health and the department of agriculture, which will provide technical assistance in the development of standards, procedures, and guidelines required by this chapter. ~~((Such))~~ The advisory committee shall be composed of ~~((individuals from the public water and wastewater utilities, landscaping enhancement industry, commercial and industrial application community, and any other persons deemed technically helpful by the department of health))~~ a broad range of interested individuals representing the various stakeholders that utilize or are potentially impacted by the use of reclaimed water. The advisory committee must also contain individuals with technical expertise and knowledge of new advancements in technology.

**NEW SECTION. Sec. 3.** The department of ecology must present interim reports to the appropriate committees of the legislature by January 1, 2008, and January 1, 2009, that summarize the steps taken to that date towards the final rule making required by section 1 of this act. The reports must include, at a minimum, a summary of participation in the advisory group and the topics considered by the department.

**Sec. 4.** RCW 90.46.010 and 2002 c 329 s 3 are each amended to read as follows:

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

(1) "Greywater" means wastewater having the consistency and strength of residential domestic type wastewater. Greywater includes wastewater from sinks, showers, and laundry fixtures, but does not include toilet or urinal waters.

(2) "Land application" means ~~((application of treated effluent for purposes of))~~ use of reclaimed water as permitted under this chapter for irrigation or landscape enhancement for residential, business, and governmental purposes.

(3) "Person" means any state, individual, public or private corporation, political subdivision, governmental subdivision, governmental agency, municipality, copartnership, association, firm, trust estate, or any other legal entity whatever.

(4) "Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for a beneficial use or a controlled use that would not otherwise occur and is no longer considered wastewater.

(5) "Sewage" means water-carried human wastes from residences, buildings, industrial and commercial establishments, or other places, together with such ground water infiltration, surface waters, or industrial wastewater as may be present.

(6) "User" means any person who uses reclaimed water.

(7) "Wastewater" means water and wastes discharged from homes, businesses, and industry to the sewer system.

(8) "Beneficial use" means the use of reclaimed water, that has been transported from the point of production to the point of use without an intervening discharge to the waters of the state, for a beneficial purpose.

(9) "Direct recharge" means the controlled subsurface addition of water directly to the ground water basin that results in the replenishment of ground water.

(10) "Ground water recharge criteria" means the contaminant criteria found in the drinking water quality standards adopted by the state board of health pursuant to chapter 43.20 RCW and the department of health pursuant to chapter 70.119A RCW.

(11) "Planned ground water recharge project" means any reclaimed water project designed for the purpose of recharging ground water, via direct recharge or surface percolation.

(12) "Reclamation criteria" means the criteria set forth in the water reclamation and reuse interim standards and subsequent revisions adopted by the department of ecology and the department of health.

(13) "Streamflow augmentation" means the discharge of reclaimed water to rivers and streams of the state or other surface water bodies, but not wetlands.

(14) "Surface percolation" means the controlled application of water to the ground surface for the purpose of replenishing ground water.

(15) "Wetland or wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands regulated under this chapter shall be delineated in accordance with the manual adopted by the department of ecology pursuant to RCW 90.58.380.

(16) "Constructed beneficial use wetlands" means those wetlands intentionally constructed on nonwetland sites to produce or replace natural wetland functions and values. Constructed beneficial use wetlands are considered "waters of the state."

(17) "Constructed treatment wetlands" means those wetlands intentionally constructed on nonwetland sites and managed for the primary purpose of ~~((wastewater or storm water treatment))~~ polishing reclaimed water or aesthetics. Constructed treatment wetlands are considered part of the collection and treatment system and are not considered "waters of the state."

(18) "Agricultural industrial process water" means water that has been used for the purpose of agricultural processing and has been adequately and reliably treated, so that as a result of that treatment, it is suitable for other agricultural water use.

(19) "Agricultural processing" means the processing of crops or milk to produce a product primarily for wholesale or retail sale for human or animal consumption, including but not limited to potato, fruit, vegetable, and grain processing.

(20) "Agricultural water use" means the use of water for irrigation and other uses related to the production of agricultural products. These uses include, but

are not limited to, construction, operation, and maintenance of agricultural facilities and livestock operations at farms, ranches, dairies, and nurseries. Examples of these uses include, but are not limited to, dust control, temperature control, and fire control.

(21) "Industrial reuse water" means water that has been used for the purpose of industrial processing and has been adequately and reliably treated so that, as a result of that treatment, it is suitable for other uses.

**Sec. 5.** RCW 90.46.030 and 2005 c 59 s 1 are each amended to read as follows:

(1)(a) The department of health shall, in coordination with the department of ecology, adopt a single set of standards, procedures, and guidelines on or before August 1, 1993, for the industrial and commercial use of reclaimed water.

(b) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to the industrial and commercial use of reclaimed water.

(2) Unless the department of ecology adopts rules pursuant to section 1 of this act that relate to the industrial and commercial use of reclaimed water specifying otherwise, the department of health may issue a reclaimed water permit for industrial and commercial uses of reclaimed water to the generator of reclaimed water who may then distribute the water, subject to provisions in the permit governing the location, rate, water quality, and purposes of use. Permits issued after the adoption of rules under section 1 of this act must be consistent with the adopted rules.

(3) The department of health in consultation with the advisory committee established in RCW 90.46.050, shall develop recommendations for a fee structure for permits issued under subsection (2) of this section. Fees shall be established in amounts to fully recover, and not exceed, expenses incurred by the department of health in processing permit applications and modifications, monitoring and evaluating compliance with permits, and conducting inspections and supporting the reasonable overhead expenses that are directly related to these activities. Permit fees may not be used for research or enforcement activities. The department of health shall not issue permits under this section until a fee structure has been established.

(4) A permit under this section for use of reclaimed water may be issued only to:

- (a) A municipal, quasi-municipal, or other governmental entity;
- (b) A private utility as defined in RCW 36.94.010; or
- (c) The holder of a waste discharge permit issued under chapter 90.48 RCW.

(5) The authority and duties created in this section are in addition to any authority and duties already provided in law with regard to sewage and wastewater collection, treatment, and disposal for the protection of health and safety of the state's waters. Nothing in this section limits the powers of the state or any political subdivision to exercise such authority.

(6) Unless the department of ecology adopts rules pursuant to section 1 of this act that relate to the industrial and commercial use of reclaimed water specifying otherwise, the department of health may implement the requirements of this section through the department of ecology by execution of a formal agreement between the departments. Upon execution of such an agreement, the department of ecology may issue reclaimed water permits for industrial and



commercial uses of reclaimed water by issuance of permits under chapter 90.48 RCW, and may establish and collect fees as required for permits issued under chapter 90.48 RCW.

(7) Unless the department of ecology adopts rules pursuant to section 1 of this act that relate to the industrial and commercial use of reclaimed water specifying otherwise, and before deciding whether to issue a permit under this section to a private utility, the department of health may require information that is reasonable and necessary to determine whether the private utility has the financial and other resources to ((assure)) ensure the reliability, continuity, and supervision of the reclaimed water facility.

**Sec. 6.** RCW 90.46.040 and 2005 c 59 s 2 are each amended to read as follows:

(1)(a) The department of ecology shall, in coordination with the department of health, adopt a single set of standards, procedures, and guidelines, on or before August 1, 1993, for land applications of reclaimed water.

(b) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to the land application of reclaimed water.

(2) A permit is required for any land application of reclaimed water. The department of ecology may issue a reclaimed water permit under chapter 90.48 RCW to the generator of reclaimed water who may then distribute the water, subject to provisions in the permit governing the location, rate, water quality, and purpose of use. The department of ecology shall not issue more than one permit for any individual land application of reclaimed water to a single generator.

(3) In cases where the department of ecology determines, in land applications of reclaimed water, that a significant risk to the public health exists, the department shall refer the application to the department of health for review and consultation and the department of health may require fees appropriate for review and consultation from the applicant pursuant to RCW 43.70.250.

(4) A permit under this section for use of reclaimed water may be issued only to:

(a) A municipal, quasi-municipal, or other governmental entity;

(b) A private utility as defined under RCW 36.94.010; or

(c) The holder of a waste discharge permit issued under chapter 90.48 RCW.

(5) The authority and duties created in this section are in addition to any authority and duties already provided in law. Nothing in this section limits the powers of the state or any political subdivision to exercise such authority.

(6) Before deciding whether to issue a permit under this section to a private utility, the department of ecology may require information that is reasonable and necessary to determine whether the private utility has the financial and other resources to ((assure)) ensure the reliability, continuity, and supervision of the reclaimed water facility.

**Sec. 7.** RCW 90.46.042 and 1995 c 342 s 6 are each amended to read as follows:

(1) The department of ecology shall, in consultation with the department of health, adopt a single set of standards, procedures, and guidelines, on or before December 31, 1996, for direct recharge using reclaimed water. The standards

shall address both water quality considerations and avoidance of property damage from excessive recharge.

(2) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to direct recharge using reclaimed water.

**Sec. 8.** RCW 90.46.044 and 1995 c 342 s 7 are each amended to read as follows:

(1) The department of ecology shall, in consultation with the department of health, adopt a single set of standards, procedures, and guidelines, on or before June 30, 1996, for discharge of reclaimed water to wetlands.

(2) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to discharge of reclaimed water to wetlands.

**Sec. 9.** RCW 90.46.080 and 1997 c 444 s 6 are each amended to read as follows:

(1) Except as otherwise provided in this section, reclaimed water may be beneficially used for surface percolation provided the reclaimed water meets the ground water recharge criteria as measured in ground water beneath or down gradient of the recharge project site, and has been incorporated into a sewer or water comprehensive plan, as applicable, adopted by the applicable local government and approved by the department of health or department of ecology as applicable.

(2) If the state ground water recharge criteria as defined by RCW 90.46.010 do not contain a standard for a constituent or contaminant, the department of ecology shall establish a discharge limit consistent with the goals of this chapter, except as otherwise provided in this section.

(3) Except as otherwise provided in this section, reclaimed water that does not meet the ground water recharge criteria may be beneficially used for surface percolation where the department of ecology, in consultation with the department of health, has specifically authorized such use at such lower standard.

(4) The provisions of this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to surface percolation.

**Sec. 10.** RCW 90.46.090 and 1997 c 444 s 7 are each amended to read as follows:

(1) Reclaimed water may be beneficially used for discharge into constructed beneficial use wetlands and constructed treatment wetlands provided the reclaimed water meets the class A or B reclaimed water standards as defined in the reclamation criteria, and the discharge is incorporated into a sewer or water comprehensive plan, as applicable, adopted by the applicable local government and approved by the department of health or department of ecology as applicable.

(2) Reclaimed water that does not meet the class A or B reclaimed water standards may be beneficially used for discharge into constructed treatment wetlands where the department of ecology, in consultation with the department of health, has specifically authorized such use at such lower standards.

(3)(a) The department of ecology and the department of health must develop appropriate standards for discharging reclaimed water into constructed beneficial use wetlands and constructed treatment wetlands. These standards must be considered as part of the approval process under subsections (1) and (2) of this section.

(b) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to discharge into constructed beneficial use wetlands and constructed treatment wetlands.

**Sec. 11.** RCW 90.46.100 and 1995 c 342 s 5 are each amended to read as follows:

(1) Reclaimed water intended for beneficial reuse may be discharged for streamflow augmentation provided the reclaimed water meets the requirements of the federal water pollution control act, chapter 90.48 RCW, and is incorporated into a sewer or water comprehensive plan, as applicable, adopted by the applicable local government and approved by the department of health or department of ecology as applicable.

(2) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to discharge of reclaimed water for streamflow augmentation.

**NEW SECTION, Sec. 12.** The code reviser shall alphabetize and renumber the definitions in RCW 90.46.010.

Passed by the House March 8, 2006.

Passed by the Senate March 7, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

## CHAPTER 280

[House Bill 3019]

### CHARTER COUNTY FINANCIAL OFFICERS—EX OFFICIO DEPUTY STATE AUDITOR

AN ACT Relating to chief financial officers in charter counties; and amending RCW 36.22.140.

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

**Sec. 1.** RCW 36.22.140 and 1995 c 301 s 61 are each amended to read as follows:

Each county auditor or (~~chief~~) financial officer designated in a charter county shall be ex officio deputy of the state auditor for the purpose of accounting and reporting on municipal corporations and in such capacity shall be under the direction of the state auditor, but he or she shall receive no additional salary or compensation by virtue thereof and shall perform no duties as such, except in connection with county business.

Passed by the House February 8, 2006.

Passed by the Senate February 28, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

## CHAPTER 281

[Substitute House Bill 3164]

## PERSONAL PROPERTY TAX EXEMPTION—HEAD OF HOUSEHOLD

AN ACT Relating to an increase in the personal property tax exemption for the head of a family; amending RCW 84.36.110; creating a new section; and providing a contingent effective date.

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

NEW SECTION. Sec. 1. The legislature finds that it is in the public interest of the people of the state of Washington to ease the burden of property taxes paid by the head of a family. To achieve this purpose, this act increases the amount of personal property exemption for the head of a family from three thousand dollars to fifteen thousand dollars. The last time this exemption was increased was 1988. It is the clear and unambiguous intent of the legislature that the property described within this measure shall be exempt for taxation, as authorized by Article VII, section 1 of the state Constitution.

Sec. 2. RCW 84.36.110 and 1988 c 10 s 1 are each amended to read as follows:

The following property shall be exempt from taxation:

(1) All household goods and furnishings in actual use by the owner thereof in equipping and outfitting his or her residence or place of abode and not for sale or commercial use, and all personal effects held by any person for his or her exclusive use and benefit and not for sale or commercial use.

(2) The personal property, other than specified in ~~((subdivision))~~ subsection (1) ((hereof)) of this section, of each head of a family liable to assessment and taxation of which ~~((such))~~ the individual is the actual and bona fide owner to an amount of ~~((three))~~ fifteen thousand dollars of ~~((actual))~~ true and fair value~~((: PROVIDED, That))~~. This exemption shall not apply to any private motor vehicle((;)) or mobile home((, and: PROVIDED, FURTHER, That)). If the county assessor is satisfied that all of the personal property of any person is exempt from taxation under the provisions of this statute or any other statute providing exemptions for personal property, no listing of such property shall be required~~((; but))~~. However, if the personal property described in this subsection exceeds in value the amount allowed as exempt, then a complete list of said personal property shall be made as provided by law, and the county assessor shall deduct the amount of the exemption authorized by this subsection from the total amount of the assessment and ~~((assess))~~ impose taxes on the remainder.

NEW SECTION. Sec. 3. This act takes effect January 1, 2007, if the proposed amendment to Article VII, section 1 of the state Constitution authorizing an increased personal exemption for the head of a family is validly submitted to and is approved and ratified by the voters at the next general election. If the proposed amendment is not approved and ratified, this act is void in its entirety.

Passed by the House February 11, 2006.

Passed by the Senate March 6, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

## CHAPTER 282

[House Bill 3205]

## CONDITIONALLY RELEASED PERSONS—APPREHENSION

AN ACT Relating to the authority to apprehend conditionally released persons; and amending RCW 71.09.098.

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

**Sec. 1.** RCW 71.09.098 and 2001 c 286 s 13 are each amended to read as follows:

(1) Any service provider submitting reports pursuant to RCW 71.09.096(6), the supervising community corrections officer, the prosecuting attorney, or the attorney general may petition the court, or the court on its own motion may schedule an immediate hearing, for the purpose of revoking or modifying the terms of the person's conditional release to a less restrictive alternative if the petitioner or the court believes the released person is not complying with the terms and conditions of his or her release or is in need of additional care, monitoring, supervision, or treatment.

(2) If the prosecuting attorney, the supervising community corrections officer, or the court, based upon information received by them, reasonably believes that a conditionally released person is not complying with the terms and conditions of his or her conditional release to a less restrictive alternative, the court or community corrections officer may order that the conditionally released person be apprehended and taken into custody until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified. A law enforcement officer, who has responded to a request for assistance from a department employee, may apprehend and take into custody the conditionally released person if the law enforcement officer reasonably believes that the conditionally released person is not complying with the terms and conditions of his or her conditional release to a less restrictive alternative. The conditionally released person may be detained in the county jail or returned to the secure community transition facility. The court shall be notified before the close of the next judicial day of the person's apprehension. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(3) The court, upon receiving notification of the person's apprehension, shall promptly schedule a hearing. The issue to be determined is whether the state has proven by a preponderance of the evidence that the conditionally released person did not comply with the terms and conditions of his or her release. Hearsay evidence is admissible if the court finds it otherwise reliable. At the hearing, the court shall determine whether the person shall continue to be conditionally released on the same or modified conditions or whether his or her conditional release shall be revoked and he or she shall be committed to total confinement, subject to release only in accordance with provisions of this chapter.

Passed by the House February 8, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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**CHAPTER 283**

[Engrossed Substitute Senate Bill 5204]

**CHATTEL LIENS**

AN ACT Relating to chattel liens; amending RCW 60.10.030 and 60.10.040; adding new sections to chapter 60.08 RCW; and providing an effective date.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 60.08 RCW to read as follows:

(1) Any owner of property subject to a recorded claim of lien under this chapter, or contractor, subcontractor, lender, or lien claimant who believes the claim of lien to be frivolous and made without reasonable cause, or clearly excessive may apply by motion to the superior court for the county where the property is located, for an order directing the lien claimant to appear before the court at a time no earlier than six nor later than fifteen days following the date of service of the application and order on the lien claimant, and show cause, if any he or she has, why the relief requested should not be granted. The motion shall state the grounds upon which relief is asked, and shall be supported by the affidavit of the applicant or his or her attorney setting forth a concise statement of the facts upon which the motion is based.

(2) The order shall clearly state that if the lien claimant fails to appear at the time and place noted the lien shall be released, with prejudice, and that the lien claimant shall be ordered to pay the costs requested by the applicant including reasonable attorneys' fees.

(3) If no action to foreclose the lien claim has been filed, the clerk of the court shall assign a cause number to the application and obtain from the applicant a filing fee of thirty-five dollars. If an action has been filed to foreclose the lien claim, the application shall be made a part of that action.

(4) The applicant must give notice of the hearing to the lien claimant by providing copies of the motion, order, and any other documents filed with the court, to the lien claimant by first class mail, by certified or registered mail, or by personal service.

(5) If, following a hearing on the matter, the court determines that the lien is frivolous and made without reasonable cause, or clearly excessive, the court shall issue an order releasing the lien if frivolous and made without reasonable cause, or reducing the lien if clearly excessive, and awarding costs and reasonable attorneys' fees to the applicant to be paid by the lien claimant. If the court determines that the lien is not frivolous and was made with reasonable cause, and is not clearly excessive, the court shall issue an order so stating and awarding costs and reasonable attorneys' fees to the lien claimant to be paid by the applicant.

(6) Proceedings under this section shall not affect other rights and remedies available to the parties under this chapter or otherwise.

**NEW SECTION. Sec. 2.** A new section is added to chapter 60.08 RCW to read as follows:

The department of licensing, and the department's agents and subagents, shall not transfer title of a vehicle through the chattel lien process under this chapter and chapter 60.10 RCW unless an affidavit of sale and the following documentation is submitted: (1) A certified copy of the lien filing that is filed with the county auditor; (2) a copy of the letter, sent by the lien claimant via first class mail, and certified or registered mail, including the return receipt, to the address of the current registered owner notifying the current registered owner of the lien filing; and (3) an affidavit of service by mail.

**Sec. 3.** RCW 60.10.030 and 1969 c 82 s 4 are each amended to read as follows:

(1) A lien foreclosure authorized by RCW 60.10.020 may be summarily foreclosed by notice and sale as provided herein. The lien holder may sell, or otherwise dispose of the collateral in its then condition or following any commercially reasonable preparation or processing. The proceeds of disposition shall be applied in the order following to

(a) the reasonable expenses of retaking, holding, preparing for sale, selling and the like and, to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) the satisfaction of indebtedness secured by the lien under which the disposition is made;

(c) the satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the lien holder, the holder of a subordinate security interest must seasonably furnish reasonable proof of his or her interest, and unless ~~((he does so))~~ that is done, the lien holder need not comply with ~~((his))~~ that demand.

(2) The lien holder must account to the lien debtor for any surplus, and, unless otherwise agreed, the lien debtor is not liable for any deficiency.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable which shall be construed as provided in RCW 60.10.070. Unless collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the lien holder to the lien debtor, by first class mail, and registered or certified mail, and except in the case of consumer goods to any other person who has a security interest in the collateral and who has duly filed a financing statement indexed in the name of the lien debtor in this state or who is known by the lien holder to have a security interest in the collateral. The lien holder may buy at any public sale and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations he or she may buy at private sale. Before accepting any bid or offer for purchase, the lien holder shall inform the bidder or purchaser of the existence of any prior lien or security interest in the collateral, and the identity of the holder of the prior lien or security interest. If the lien

holder does not know this information, he or she shall advise the prospective purchaser of that.

**Sec. 4.** RCW 60.10.040 and 1995 c 62 s 6 are each amended to read as follows:

When a lien is foreclosed in accordance with the provisions of this chapter, the disposition transfers to a purchaser for value all of the lien debtor's rights therein, discharges the lien under which it is made and any security interest or lien subordinate thereto. The purchaser takes free of all such rights and interests even though the lien holder fails to comply with the requirements of this chapter:

(1) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he or she does not buy in collusion with the lien holder, other bidders, or the person conducting the sale; or

(2) In any other case, if the purchaser acts in good faith.

The purchaser takes subject to any security interest or lien that is superior to the lien under which the sale is made. In the case of property that is subject to a certificate of title, the department of licensing and the department's agents and subagents shall not transfer title through this process unless the new certificate of title reflects the security interest that is superior to the lien under which the sale is made. If a new certificate of title is issued that does not reflect the security interest that is superior to the lien under which the sale is made, the holder of such interest may request and obtain from the department of licensing a replacement certificate of title reflecting such security interest, and showing the purchaser as the registered owner. The department of licensing shall notify the purchaser of the issuance of any replacement title.

NEW SECTION. Sec. 5. This act takes effect October 1, 2006.

Passed by the Senate February 7, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 284

[Substitute Senate Bill 6234]

### INSURANCE FRAUD PROGRAM

AN ACT Relating to insurance fraud; amending RCW 48.50.070, 48.50.075, 10.93.020, and 42.56.400; adding a new section to chapter 42.17 RCW; adding a new chapter to Title 48 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. The purpose of this act is to confront the problem of insurance fraud in this state by making a concerted effort to detect insurance fraud, reduce the occurrence of fraud through criminal enforcement and deterrence, require restitution of fraudulently obtained insurance benefits and expenses incurred by an insurer in investigating fraudulent claims, and reduce the amount of premium dollars used to pay fraudulent claims. The primary focus of the insurance fraud program is on organized fraudulent activities committed against insurance companies.

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



(1) "Insurance fraud" means an act or omission committed by a person who, knowingly, and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

(a) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by an insurer, broker, or its agent, false information as part of, in support of, or concerning a fact material to one or more of the following:

- (i) An application for the issuance or renewal of an insurance policy;
- (ii) The rating of an insurance policy or contract;
- (iii) A claim for payment or benefit pursuant to an insurance policy;
- (iv) Premiums paid on an insurance policy;
- (v) Payments made in accordance with the terms of an insurance policy; or
- (vi) The reinstatement of an insurance policy;

(b) Willful embezzlement, abstracting, purloining, or conversion of moneys, funds, premiums, credits, or other property of an insurer or person engaged in the business of insurance; or

(c) Attempting to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subsection.

The definition of insurance fraud is for illustrative purposes only under this chapter to describe the nature of the behavior to be reported and investigated, and is not intended in any manner to create or modify the definition of any existing criminal acts nor to create or modify the burdens of proof in any criminal prosecution brought as a result of an investigation under this chapter.

(2) "Insurer" means an insurance company authorized under chapter 48.05 RCW, a health care service contractor registered under chapter 48.44 RCW, and a health care maintenance organization registered under chapter 48.46 RCW.

**NEW SECTION. Sec. 3.** (1) There is established an insurance fraud program within the office of the insurance commissioner. The commissioner may employ supervisory, legal, and investigative personnel for the program, who must be qualified by training and experience in the areas of detection, investigation, or prosecution of fraud in which the insurance industry is a victim. The chief of the fraud program is a full-time position that is appointed by the commissioner. The chief serves at the pleasure of the commissioner. The commissioner shall provide office space, equipment, supplies, investigators, clerical staff, and other staff that are necessary for the program to carry out its duties and responsibilities under this chapter.

(2) The commissioner may fund one or more state patrol officers to work with the insurance fraud program and the funding for the officers must be paid out of the budget of the insurance fraud program.

(3) The commissioner may fund one or more assistant attorney generals and support staff to work with the insurance fraud program and the funding for the assistant attorney generals and support staff must be paid out of the budget of the insurance fraud program.

(4) The commissioner may make grants to or reimburse local prosecuting attorneys to assist in the prosecution of insurance fraud. The grants must be paid out of the budget of the insurance fraud program. The commissioner may investigate and seek prosecution of crimes involving insurance fraud upon the request of or with the concurrence of the county prosecuting attorney of the jurisdiction in which the offense has occurred. Before such a prosecution, the

commissioner and the county in which the offense occurred shall reach an agreement regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution.

(5) Staff levels for this program, until June 30, 2010, shall not exceed 8.0 full-time equivalents.

**NEW SECTION. Sec. 4.** The annual cost of operating the fraud program is funded from the insurance commissioner's regulatory account under RCW 48.02.190 subject to appropriation by the legislature.

**NEW SECTION. Sec. 5.** (1) The commissioner may:

(a) Employ and train personnel to achieve the purposes of this chapter and to employ legal counsel, investigators, auditors, and clerical support personnel and other personnel as the commissioner determines necessary from time to time to accomplish the purposes of this chapter;

(b) Initiate inquiries and conduct investigations when the commissioner has cause to believe that insurance fraud has been, is being, or is about to be committed;

(c) Conduct independent examinations of alleged insurance fraud;

(d) Review notices, reports, or complaints of suspected insurance fraud activities from federal, state, and local law enforcement and regulatory agencies, persons engaged in the business of insurance, and any other person to determine whether the reports require further investigation;

(e) Share records and evidence with federal, state, or local law enforcement or regulatory agencies, and enter into interagency agreements;

(f) Conduct investigations outside this state. If the information the commissioner seeks to obtain is located outside this state, the person from whom the information is sought may make the information available to the commissioner to examine at the place where the information is located. The commissioner may designate representatives, including officials of the state in which the matter is located, to inspect the information on behalf of the commissioner, and the commissioner may respond to similar requests from officials of other states;

(g) Administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner deems relevant or material to an inquiry concerning insurance fraud;

(h) Report incidents of alleged insurance fraud disclosed by its investigations to the appropriate prosecutorial authority, including but not limited to the attorney general and to any other appropriate law enforcement, administrative, regulatory, or licensing agency;

(i) Assemble evidence, prepare charges, and work closely with any prosecutorial authority having jurisdiction to pursue prosecution of insurance fraud; and

(j) Undertake independent studies to determine the extent of fraudulent insurance acts.

(2) The fraud program investigators who have obtained certification as a peace officer under RCW 43.101.095 have the powers and status of a limited authority Washington peace officer.

**NEW SECTION. Sec. 6.** (1) Any insurer or licensee of the commissioner that has reasonable belief that an act of insurance fraud which is or may be a crime under Washington law has been, is being, or is about to be committed shall furnish and disclose the knowledge and information to the commissioner or the national insurance crime bureau, the national association of insurance commissioners, or similar organization, who shall disclose the information to the commissioner, and cooperate fully with any investigation conducted by the commissioner.

(2) Any person that has a reasonable belief that an act of insurance fraud which is or may be a crime under Washington law has been, is being, or is about to be committed; or any person who collects, reviews, or analyzes information concerning insurance fraud which is or may be a crime under Washington law may furnish and disclose any information in its possession concerning such an act to the commissioner or to an authorized representative of an insurer that requests the information for the purpose of detecting, prosecuting, or preventing insurance fraud.

**NEW SECTION. Sec. 7.** (1) Documents, materials, or other information as described in subsection (3), (4), or both of this section are exempt from public inspection and copying under chapters 42.17 and 42.56 RCW. The commissioner is authorized to use such documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(2) The commissioner:

(a) May share documents, materials, or other information, including the documents, materials, or information subject to subsection (1) of this section, with (i) the national association of insurance commissioners and its affiliates and subsidiaries, (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities, (iii) the national insurance crime bureau, and (iv) an insurer with respect to whom the suspected fraudulent claim may be perpetrated;

(b) May receive documents, materials, or information from (i) the national association of insurance commissioners and its affiliates and subsidiaries, (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities, (iii) the national insurance crime bureau, and (iv) an insurer with respect to whom the suspected fraudulent claim may be perpetrated and any such documents, materials, or information as described in subsection (3), (4), or both of this section are exempt from public inspection and copying; and

(c) May enter into agreements governing the sharing and use of information consistent with this subsection.

(3) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, the fraud program of the office of the insurance commissioner, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy, are exempt under subsection (1) of this section.

(4) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, and

penology agencies, or the fraud program of the office of the insurance commissioner, if disclosure would endanger any person's life, physical safety, or property, is exempt under subsection (1) of this section. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern.

(5) No waiver of an existing privilege or claim of confidentiality in the documents, materials, or information may occur as a result of disclosure to the commissioner under this section or as a result of sharing documents, materials, or information as authorized in subsection (2) of this section.

(6) Documents, materials, or other information that is in the possession of persons other than the commissioner that would otherwise not be confidential by law or privileged do not become confidential by law or privileged by providing the documents, materials, or other information to the commissioner.

**NEW SECTION. Sec. 8.** In a criminal prosecution for any crime under Washington law in which the insurance company is a victim, the insurance company is entitled to be considered as a victim in any restitution ordered by the court under RCW 9.94A.753, as part of the criminal penalty imposed against the defendant convicted for such a violation.

**NEW SECTION. Sec. 9.** This chapter does not:

(1) Preempt the authority or relieve the duty of any other general authority law enforcement agencies to investigate, examine, and prosecute suspected violations of law;

(2) Prevent or prohibit a person from voluntarily disclosing any information concerning insurance fraud to any law enforcement agency other than the commissioner; or

(3) Limit any of the powers granted elsewhere in this title to the commissioner to investigate and examine possible violations of the law and to take appropriate action.

**NEW SECTION. Sec. 10.** No later than six months after the effective date of this section, or when the insurer has used all its existing paper application and claim forms which were in its possession on the effective date of this section, whichever is later, all applications for insurance, and all claim forms regardless of the form of transmission provided and required by an insurer or required by law as condition of payment of a claim, must contain a statement, permanently affixed to the application or claim form, that clearly states in substance the following:

"It is a crime to knowingly provide false, incomplete, or misleading information to an insurance company for the purpose of defrauding the company. Penalties include imprisonment, fines, and denial of insurance benefits."

The lack of a statement required in this section does not constitute a defense in any criminal prosecution nor any civil action.

**NEW SECTION. Sec. 11.** The commissioner shall appoint an insurance fraud advisory board. The board shall consist of ten members. Five members shall be representatives from the insurance industry doing business in this state, at least one of which shall be from a Washington domestic insurer, two members shall represent consumers, one member shall represent the national insurance crime bureau or successor organization, one member shall represent prosecutors,

and one member shall represent other law enforcement agencies. The members of the board serve four-year terms and until their successors are appointed and qualified. Three of the original members must be appointed to serve an initial term of four years, three must be appointed to serve an initial term of three years, two must be appointed to serve an initial term of two years, and two must be appointed to serve an initial term of one year. The members of the board receive no compensation. The board shall advise the commissioner and the legislature with respect to the effectiveness, resources allocated to the fraud program, the source of the funding for the program, and before June 30, 2010, if the staffing level restriction in section 3(5) of this act should be renewed.

**NEW SECTION. Sec. 12.** The commissioner shall prepare a periodic report of the activities of the fraud program. The report shall, at a minimum, include information as to the number of cases reported to the commissioner, the number of cases referred for prosecution, the number of convictions obtained, the amount of money recovered, and any recommendations of the insurance advisory board.

**NEW SECTION. Sec. 13.** The commissioner may adopt rules to implement and administer this chapter.

**Sec. 14.** RCW 48.50.070 and 2000 c 254 s 5 are each amended to read as follows:

Any licensed insurance agent, any licensed insurance broker, or any insurer or person acting in the insurer's behalf, health maintenance organization or person acting in behalf of the health maintenance organization, health care service contractor or person acting in behalf of the health care service contractor, or any authorized agency which releases information, whether oral or written, to the commissioner, the national insurance crime bureau, the national association of insurance commissioners, other law enforcement agent or agency, or another insurer under RCW 48.50.030, 48.50.040, 48.50.050, ~~((or))~~ 48.50.055, or section 6 of this act is immune from liability in any civil or criminal action, suit, or prosecution arising from the release of the information, unless actual malice on the part of the agent, broker, insurer, health care maintenance organization, health care service contractor, or authorized agency against the insured is shown.

**Sec. 15.** RCW 48.50.075 and 1995 c 285 s 24 are each amended to read as follows:

In denying a claim, an insurer, health maintenance organization, or health care service contractor who relies upon a written opinion from an authorized agency specifically enumerated in RCW 48.50.020(1) (a) through (g) that criminal activity that is related to that claim is being investigated, or a crime has been charged, and that the claimant is a target of the investigation or has been charged with a crime, is not liable for bad faith or other noncontractual theory of damages as a result of this reliance.

Immunity under this section shall exist only so long as the incident for which the claimant may be responsible is under active investigation or prosecution, or the authorized agency states its position that the claim includes or is a result of criminal activity in which the claimant was a participant.

**Sec. 16.** RCW 10.93.020 and 2002 c 128 s 1 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "General authority Washington law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, as distinguished from a limited authority Washington law enforcement agency, and any other unit of government expressly designated by statute as a general authority Washington law enforcement agency. The Washington state patrol and the department of fish and wildlife are general authority Washington law enforcement agencies.

(2) "Limited authority Washington law enforcement agency" means any agency, political subdivision, or unit of local government of this state, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, the office of the insurance commissioner, and the state department of corrections.

(3) "General authority Washington peace officer" means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.

(4) "Limited authority Washington peace officer" means any full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority Washington peace officer may be a specially commissioned Washington peace officer if otherwise qualified for such status under this chapter.

(5) "Specially commissioned Washington peace officer", for the purposes of this chapter, means any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state of Washington, who does not qualify under this chapter as a general authority Washington peace officer for that commissioning agency, specifically including reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon or Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho. A reserve peace officer is an individual who is an officer of a Washington law enforcement agency who does not serve such agency on a full-time basis but who, when called by the agency into active service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

(6) "Federal peace officer" means any employee or agent of the United States government who has the authority to carry firearms and make warrantless

arrests and whose duties involve the enforcement of criminal laws of the United States.

(7) "Agency with primary territorial jurisdiction" means a city or town police agency which has responsibility for police activity within its boundaries; or a county police or sheriff's department which has responsibility with regard to police activity in the unincorporated areas within the county boundaries; or a statutorily authorized port district police agency or four-year state college or university police agency which has responsibility for police activity within the statutorily authorized enforcement boundaries of the port district, state college, or university.

(8) "Primary commissioning agency" means (a) the employing agency in the case of a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer, and (b) the commissioning agency in the case of a specially commissioned Washington peace officer (i) who is performing functions within the course and scope of the special commission and (ii) who is not also a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer.

(9) "Primary function of an agency" means that function to which greater than fifty percent of the agency's resources are allocated.

(10) "Mutual law enforcement assistance" includes, but is not limited to, one or more law enforcement agencies aiding or assisting one or more other such agencies through loans or exchanges of personnel or of material resources, for law enforcement purposes.

**Sec. 17.** RCW 42.56.400 and 2005 c 274 s 420 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of all viators regulated by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

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

(7) Examination reports and information obtained by the department of financial institutions from banks under RCW 30.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and

sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(8) Information provided to the insurance commissioner under RCW 48.110.040(3);

(9) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged; ~~((and))~~

(10) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070; and

(11) Documents, materials, or information obtained by the insurance commissioner under section 7 of this act.

***\*NEW SECTION. Sec. 18. A new section is added to chapter 42.17 RCW to read as follows:***

***Documents, materials, or information obtained by the insurance commissioner under section 7 of this act are exempt from disclosure under this chapter.***

\*Sec. 18 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 19.** 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. 20.** Sections 1 through 13 and 19 of this act constitute a new chapter in Title 48 RCW.

**NEW SECTION. Sec. 21.** This act takes effect July 1, 2006.

Passed by the Senate March 4, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 28, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 28, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 18, Substitute Senate Bill No. 6234 entitled:

"AN ACT Relating to insurance fraud."

Part of SSB 6234 creates a new exemption for certain documents under the Public Disclosure Act. Section 17 adds the exemption to the new public disclosure act section, RCW 42.56.400. Chapter 42.56 RCW takes effect July 1, 2006.

Section 18 also adds the same exemption as a new section to Chapter 42.17 RCW. Chapter 42.17 RCW, however, expires on July 1, 2006. Consequently, we should not add a new statutory exemption to that Chapter. Pursuant to Section 17 of SSB 6234, the new exemption will be in the proper Chapter. Therefore, to avoid duplication and the inadvertent creation of a technical problem, Section 18 must be vetoed.

For these reasons, I have vetoed Section 18 of Substitute Senate Bill No. 6234.

With the exception of Section 18, Substitute Senate Bill No. 6234 is approved."



## CHAPTER 285

[Engrossed Substitute Senate Bill 6427]

GROWTH MANAGEMENT—SELECTED COUNTIES AND CITIES—COMPREHENSIVE  
PLANS

AN ACT Relating to schedules for the review of comprehensive plans and development regulations for certain cities and counties; reenacting and amending RCW 36.70A.130; and creating a new section.

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

**NEW SECTION. Sec. 1.** There is a statewide interest in maintaining coordinated planning as called for in the legislative findings of the growth management act, RCW 36.70A.010. It is the intent of the legislature that smaller, slower-growing counties and cities be provided with flexibility in meeting the requirements to review local plans and development regulations in RCW 36.70A.130, while ensuring coordination and consistency with the plans of neighboring cities and counties.

**Sec. 2.** RCW 36.70A.130 and 2005 c 423 s 6 and 2005 c 294 s 2 are each reenacted and amended to read as follows:

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

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

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

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

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of

this section, and the time periods specified in subsection (4) of this section or in accordance with the provisions of subsections (5) and (8) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

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

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

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

(iv) Until June 30, 2006, the designation of recreational lands under RCW 36.70A.1701. A county amending its comprehensive plan pursuant to this subsection (2)(a)(iv) may not do so more frequently than every eighteen months; and

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

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

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

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

(4) The department shall establish a schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter. Except as provided in subsections (5) and (8) of this section, the schedule established by the department shall provide for the reviews and evaluations to be completed as follows:

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

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

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

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

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

(b) A county that is subject to a schedule established by the department under subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the date established in the applicable schedule: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the date established in the applicable schedule as of that date.

(c) A city that is subject to a schedule established by the department under subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the date established in the applicable schedule: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the date established in the applicable schedule as of that date.

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

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

(7) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities (~~in compliance~~): (a)

Complying with the schedules in this section (~~(and those counties and cities)~~); (b) demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or (c) complying with the extension provisions of subsection (5)(b) or (c) of this section may receive grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030. A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is (~~deemed to be~~) making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8) Except as provided in subsection (5)(b) and (c) of this section:

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

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

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

(9) Notwithstanding subsection (8) of this section and the substantial progress provisions of subsections (7) and (10) of this section, only those counties and cities complying with the schedule in subsection (4) of this section, or the extension provisions of subsection (5)(b) or (c) of this section, may receive preferences for grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030.

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

Passed by the Senate March 6, 2006.

Passed by the House March 3, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

## CHAPTER 286

[Substitute Senate Bill 6441]

## DISTRRAINT OF PERSONAL PROPERTY—WARRANTS

AN ACT Relating to judicial orders concerning distraint of personal property; and adding a new section to chapter 84.56 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 84.56 RCW to read as follows:

(1) When there is probable cause to believe that there is property within the county subject to distraint pursuant to RCW 84.56.070 or 84.56.090, any judge of the superior court or district court in the county in which such property is located may, upon the request of the county treasurer or their deputy, issue a warrant directed to the county treasurer or their deputy commanding the search for and seizure of the property described in the request for warrant at the place or places described in the request for warrant.

(2) The procedure for the issuance and execution and return of the warrant authorized by this section and for return of any property seized shall be the criminal rules of the superior court and the district court.

(3) Property seized under this section shall be disposed of as provided in RCW 84.56.070 or 84.56.090.

(4) This section does not require the application for or issuance of any warrant not otherwise required by law.

Passed by the Senate February 10, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

## CHAPTER 287

[Senate Bill 6568]

## ANIMAL FIGHTING

AN ACT Relating to animal fighting; amending RCW 16.52.117; and prescribing penalties.

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

**Sec. 1.** RCW 16.52.117 and 2005 c 481 s 3 are each amended to read as follows:

(1) A person commits the crime of animal fighting if the person knowingly does any of the following:

(a) Owns, possesses, keeps, breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal;

(b) Knowingly promotes, organizes, conducts, participates in, is a spectator of, advertises, prepares, or performs any service in the furtherance of, an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight at any place or building;

(c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting;

(d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; or

(e) Takes, leads away, possesses, confines, sells, transfers, or receives a stray animal or a pet animal, with the intent to deprive the owner of the pet animal, and with the intent of using the stray animal or pet animal for animal fighting, or for training or baiting for the purpose of animal fighting.

(2) A person who violates this section is guilty of a class C felony punishable under RCW 9A.20.021.

(3) Nothing in this section prohibits the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

(b) The use of dogs in hunting as permitted by law; or

(c) The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

(4) For the purposes of this section, "animal" means dogs or male chickens.

Passed by the Senate March 4, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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**CHAPTER 288**

[Substitute Senate Bill 6570]

**RETAIL INSTALLMENT CONTRACTS—MOTOR VEHICLES**

AN ACT Relating to retail installment contracts for motor vehicles; and adding a new section to chapter 63.14 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 63.14 RCW to read as follows:

If a retail installment contract for the purchase of a motor vehicle meets the requirements of this chapter and meets the requirements of any federal law applicable to a retail installment contract for the purchase of a motor vehicle, the retail installment contract shall be accepted for consideration by any lender, except for lenders licensed and regulated under the provisions of chapter 31.04 RCW, to whom application for credit relating to the retail installment contract is made.

Passed by the Senate February 14, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

## CHAPTER 289

[Substitute Senate Bill 6571]

## MOTOR VEHICLE DEALERS—FINANCING PRACTICES

AN ACT Relating to financing practices of motor vehicle dealers; amending RCW 46.70.180; and creating a new section.

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

**Sec. 1.** RCW 46.70.180 and 2003 c 368 s 1 are each amended to read as follows:

Each of the following acts or practices is unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2)(a) To incorporate within the terms of any purchase and sale or lease agreement any statement or representation with regard to the sale, lease, or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price or capitalized cost of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale. However, an amount not to exceed thirty-five dollars per vehicle sale or lease may be charged by a dealer to recover administrative costs for collecting motor vehicle excise taxes, licensing and registration fees and other agency fees, verifying and clearing titles, transferring titles, perfecting, releasing, or satisfying liens or other security interests, and other administrative and documentary services rendered by a dealer in connection with the sale or lease of a vehicle and in carrying out the requirements of this chapter or any other provisions of state law.

(b) A dealer may charge the documentary service fee in (a) of this subsection under the following conditions:

(i) The documentary service fee is disclosed in writing to a prospective purchaser or lessee before the execution of a purchase and sale or lease agreement;

(ii) The documentary service fee is not represented to the purchaser or lessee as a fee or charge required by the state to be paid by either the dealer or prospective purchaser or lessee;

(iii) The documentary service fee is separately designated from the selling price or capitalized cost of the vehicle and from any other taxes, fees, or charges; and

(iv) Dealers disclose in any advertisement that a documentary service fee in an amount up to thirty-five dollars may be added to the sale price or the capitalized cost.

For the purposes of this subsection (2), the term "documentary service fee" means the optional amount charged by a dealer to provide the services specified in (a) of this subsection.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold or leased to a person for a consideration and upon further consideration that the purchaser or lessee agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser or lessee being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: ~~((Taking from a prospective buyer or lessee of a vehicle a written order or offer to purchase or lease, or))~~ Entering into a written contract ((document)), written purchase order or agreement, retail installment sales agreement, note and security agreement, or written lease agreement, hereinafter collectively referred to as contract or lease, signed by the prospective buyer or lessee of a vehicle, which:

(a) Is subject to any conditions or the dealer's(;) or his or her authorized representative's future acceptance, and the dealer fails or refuses within ~~((three))~~ four calendar days, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer or lessee(;) to inform the buyer or lessee either: (i) ~~((to deliver to the buyer or lessee the dealer's signed acceptance.))~~ That the dealer unconditionally accepts the contract or lease, having satisfied, removed, or waived all conditions to acceptance or performance, including, but not limited to, financing, assignment, or lease approval; or (ii) ~~((to void the order, offer, or contract document))~~ that the dealer rejects the contract or lease, thereby automatically voiding the contract or lease, as long as such voiding does not negate commercially reasonable contract or lease provisions pertaining to the return of the subject vehicle and any physical damage, excessive mileage after the demand for return of the vehicle, and attorneys' fees authorized by law, and tenders the ((return)) refund of any initial payment or security made or given by the buyer or lessee, including, but not limited to ((money, check, promissory note, vehicle keys)), ((#)) any down payment, and tenders return of the trade-in vehicle, key, other trade-in, or certificate of title to a trade-in(;-#)). Tender may be conditioned on return of the subject vehicle if previously delivered to the buyer or lessee.

The provisions of this subsection (4)(a) do not impair, prejudice, or abrogate the rights of a dealer to assert a claim against the buyer or lessee for misrepresentation or breach of contract and to exercise all remedies available at law or in equity, including those under chapter 62A.9A RCW, if the dealer, bank,



or other lender or leasing company discovers that approval of the contract or financing or approval of the lease was based upon material misrepresentations made by the buyer or lessee, including, but not limited to, misrepresentations regarding income, employment, or debt of the buyer or lessee, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation. A dealer shall not be in violation of this subsection (4)(a) if the buyer or lessee made a material misrepresentation to the dealer, as long as the dealer, or his or her staff, has not, with knowledge of the material misrepresentation, aided, assisted, encouraged, or participated, directly or indirectly, in the misrepresentation.

When a dealer informs a buyer or lessee under this subsection (4)(a) regarding the unconditional acceptance or rejection of the contract, lease, or financing by an electronic mail message, the dealer must also transmit the communication by any additional means:

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer or lessee as part of the purchase price or lease, for any reason except:

(i) Failure to disclose that the vehicle's certificate of ownership has been branded for any reason, including, but not limited to, status as a rebuilt vehicle as provided in RCW 46.12.050 and 46.12.075; or

(ii) Substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(iii) Excessive additional miles or a discrepancy in the mileage. "Excessive additional miles" means the addition of five hundred miles or more, as reflected on the vehicle's odometer, between the time the vehicle was first valued by the dealer for purposes of determining its trade-in value and the time of actual delivery of the vehicle to the dealer. "A discrepancy in the mileage" means (A) a discrepancy between the mileage reflected on the vehicle's odometer and the stated mileage on the signed odometer statement; or (B) a discrepancy between the mileage stated on the signed odometer statement and the actual mileage on the vehicle; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesperson to refuse to furnish, upon request of a prospective purchaser or lessee, for vehicles previously registered to a business or governmental entity, the name and address of the business or governmental entity.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle. However, a dealer

may issue a second temporary permit on a vehicle if the following conditions are met:

(a) The lienholder fails to deliver the vehicle title to the dealer within the required time period;

(b) The dealer has satisfied the lien; and

(c) The dealer has proof that payment of the lien was made within two calendar days, exclusive of Saturday, Sunday, or a legal holiday, after the sales contract has been executed by all parties and all conditions and contingencies in the sales contract have been met or otherwise satisfied.

(9) For a dealer, salesperson, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser or lessee prior to the delivery of the bargained-for vehicle, to commingle the "on deposit" funds with assets of the dealer, salesperson, or mobile home manufacturer instead of holding the "on deposit" funds as trustee in a separate trust account until the purchaser or lessee has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser or lessee, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales or lease agreement signed by the seller and buyer or lessee.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, purchase moneys or funds that have been deposited into or withdrawn out of any account controlled or used by any buyer's agent, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle.

(12) For a buyer's agent, acting directly or through a subsidiary, to pay to or receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase, sale, or lease of a new motor vehicle. In addition, it is unlawful for any buyer's agent to engage in any of the following acts on behalf of or in the name of the consumer:

(a) Receiving or paying any purchase moneys or funds into or out of any account controlled or used by any buyer's agent;

(b) Signing any vehicle purchase orders, sales contracts, leases, odometer statements, or title documents, or having the name of the buyer's agent appear on the vehicle purchase order, sales contract, lease, or title; or

(c) Signing any other documentation relating to the purchase, sale, lease, or transfer of any new motor vehicle.

It is unlawful for a buyer's agent to use a power of attorney obtained from the consumer to accomplish or effect the purchase, sale, lease, or transfer of ownership documents of any new motor vehicle by any means which would otherwise be prohibited under (a) through (c) of this subsection. However, the buyer's agent may use a power of attorney for physical delivery of motor vehicle license plates to the consumer.

Further, it is unlawful for a buyer's agent to engage in any false, deceptive, or misleading advertising, disseminated in any manner whatsoever, including but not limited to making any claim or statement that the buyer's agent offers, obtains, or guarantees the lowest price on any motor vehicle or words to similar effect.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW. This subsection also applies to leased vehicles. In addition, it is unlawful for any buyer's agent to fail to have a written agreement with the customer that: (a) Sets forth the terms of the parties' agreement; (b) discloses to the customer the total amount of any fees or other compensation being paid by the customer to the buyer's agent for the agent's services; and (c) further discloses whether the fee or any portion of the fee is refundable.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter ~~((46.94))~~ 46.93 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his or her capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he or she is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) the cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith;

(c) Encourage, aid, abet, or teach a vehicle dealer to sell or lease vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale or lease of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser or lessee of any new or unused vehicle that has been sold or leased, distributed for sale or lease, or transferred into this state for resale or lease by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

(16) To knowingly and intentionally engage in collusion with a registered owner of a vehicle to repossess and return or resell the vehicle to the registered owner in an attempt to avoid a suspended license impound under chapter 46.55 RCW. However, compliance with chapter 62A.9A RCW in repossessing, selling, leasing, or otherwise disposing of the vehicle, including providing redemption rights to the debtor, is not a violation of this section.

**NEW SECTION, Sec. 2.** This act applies prospectively only and not retroactively. It applies only to causes of action that arise (if change is substantive) or that are commenced (if change is procedural) on or after the effective date of this section.

Passed by the Senate February 9, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 290

[Substitute Senate Bill 6613]

### INTERNET GAMBLING

AN ACT Relating to reaffirming and clarifying the prohibition against internet and certain other interactive electronic or mechanical devices to engage in gambling; amending RCW 9.46.240 and 67.70.040; and creating a new section.

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

**NEW SECTION. Sec. 1.** It is the policy of this state to prohibit all forms and means of gambling, except where carefully and specifically authorized and regulated. With the advent of the internet and other technologies and means of communication that were not contemplated when either the gambling act was enacted in 1973, or the lottery commission was created in 1982, it is appropriate for this legislature to reaffirm the policy prohibiting gambling that exploits such new technologies.

**Sec. 2.** RCW 9.46.240 and 1991 c 261 s 9 are each amended to read as follows:

Whoever knowingly transmits or receives gambling information by telephone, telegraph, radio, semaphore, the internet, a telecommunications transmission system, or similar means, or knowingly installs or maintains equipment for the transmission or receipt of gambling information shall be guilty of a ~~((gross misdemeanor))~~ class C felony subject to the penalty set forth in RCW 9A.20.021(~~(= PROVIDED, HOWEVER, That)~~). However, this section shall not apply to such information transmitted or received or equipment installed or maintained relating to activities authorized by this chapter or to any act or acts in furtherance thereof when conducted in compliance with the provisions of this chapter and in accordance with the rules ~~((and regulations))~~ adopted ~~((pursuant thereto))~~ under this chapter.

**Sec. 3.** RCW 67.70.040 and 1994 c 218 s 4 are each amended to read as follows:

The commission shall have the power, and it shall be its duty:

(1) To ~~((promulgate such))~~ adopt rules governing the establishment and operation of a state lottery as it deems necessary and desirable in order that such a lottery be initiated at the earliest feasible and practicable time, and in order that such lottery produce the maximum amount of net revenues for the state consonant with the dignity of the state and the general welfare of the people. Such rules shall include, but shall not be limited to, the following:

(a) The type of lottery to be conducted which may include the selling of tickets or shares, but such tickets or shares may not be sold over the internet. The use of electronic or mechanical devices or video terminals which allow for individual play against such devices or terminals shall be prohibited. An affirmative vote of sixty percent of both houses of the legislature is required before offering any game allowing or requiring a player to become eligible for a prize or to otherwise play any portion of the game by interacting with any device or terminal involving digital, video, or other electronic representations of any game of chance, including scratch tickets, pull-tabs, bingo, poker or other cards, dice, roulette, keno, or slot machines. Approval of the legislature shall be required before entering any agreement with other state lotteries to conduct shared games;

(b) The price, or prices, of tickets or shares in the lottery;

(c) The numbers and sizes of the prizes on the winning tickets or shares;

(d) The manner of selecting the winning tickets or shares, except as limited by (a) of this subsection;

(e) The manner and time of payment of prizes to the holder of winning tickets or shares which, at the director's option, may be paid in lump sum amounts or installments over a period of years;

(f) The frequency of the drawings or selections of winning tickets or shares. Approval of the legislature is required before conducting any on-line game in which the drawing or selection of winning tickets occurs more frequently than once every twenty-four hours;

(g) Without limit as to number, the type or types of locations at which tickets or shares may be sold;

(h) The method to be used in selling tickets or shares, except as limited by (a) of this subsection;

(i) The licensing of agents to sell or distribute tickets or shares, except that a person under the age of eighteen shall not be licensed as an agent;

(j) The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public;

(k) The apportionment of the total revenues accruing from the sale of lottery tickets or shares and from all other sources among: (i) The payment of prizes to the holders of winning tickets or shares, which shall not be less than forty-five percent of the gross annual revenue from such lottery, (ii) transfers to the lottery administrative account created by RCW 67.70.260, and (iii) transfer to the state's general fund. Transfers to the state general fund shall be made in compliance with RCW 43.01.050;

(1) Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares and the holders of winning tickets or shares.

(2) To ensure that in each place authorized to sell lottery tickets or shares, on the back of the ticket or share, and in any advertising or promotion there shall be conspicuously displayed an estimate of the probability of purchasing a winning ticket.

(3) To amend, repeal, or supplement any such rules from time to time as it deems necessary or desirable.

(4) To advise and make recommendations to the director for the operation and administration of the lottery.

Passed by the Senate February 14, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 291

[Substitute Senate Bill 6676]

### FRAUDULENT FILING OF VEHICLE REPORT OF SALE

AN ACT Relating to fraudulent filing of vehicle report of sale; amending RCW 46.12.102; reenacting and amending RCW 46.12.101; adding a new section to chapter 9.45 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 9.45 RCW to read as follows:

Every person who files a vehicle report of sale without the knowledge of the transferee shall be guilty of fraudulent filing of vehicle report of sale and shall be punished as follows:

(1) Where the victim incurred damages in an amount less than two hundred fifty dollars, the defendant is guilty of a gross misdemeanor.

(2) Where the victim incurred damages in an amount exceeding two hundred fifty dollars, the defendant is guilty of a class C felony.

(3) Where the victim incurred damages in an amount exceeding one thousand five hundred dollars, the defendant is guilty of a class B felony.

**Sec. 2.** RCW 46.12.101 and 2004 c 223 s 1 and 2004 c 200 s 2 are each reenacted and amended to read as follows:

A transfer of ownership in a motor vehicle is perfected by compliance with the requirements of this section.

(1) If an owner transfers his or her interest in a vehicle, other than by the creation, deletion, or change of a security interest, the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and provide an odometer disclosure statement under RCW 46.12.124 on the certificate of ownership or as the department otherwise prescribes, and cause the certificate and assignment to be transmitted to the transferee. The owner shall notify the department or its agents or subagents, in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, the transferee's driver's license number if available, and such description of the vehicle, including the vehicle identification number, as may be required in the appropriate form provided or approved for that purpose by the department. The report of sale will be deemed properly filed if all information required in this section is provided on the form and includes a department-authorized notation that the document was received by the department, its agents, or subagents on or before the fifth day after the sale of the vehicle, excluding Saturdays, Sundays, and state and federal holidays. Agents and subagents shall immediately electronically transmit the seller's report of sale to the department. Reports of sale processed and recorded by the department's agents or subagents may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b). By January 1, 2003, the department shall create a system enabling the seller of a vehicle to transmit the report of sale electronically. The system created by the department must immediately indicate on the department's vehicle record that a seller's report of sale has been filed.

(2) The requirements of subsection (1) of this section to provide an odometer disclosure statement apply to the transfer of vehicles held for lease when transferred to a lessee and then to the lessor at the end of the leasehold and to vehicles held in a fleet when transferred to a purchaser.

(3) Except as provided in RCW 46.70.122 the transferee shall within fifteen days after delivery to the transferee of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department accompanied by a fee of five dollars in addition to any other fees required.

(4) Upon request of the owner or transferee, a secured party in possession of the certificate of ownership shall, unless the transfer was a breach of its security agreement, either deliver the certificate to the transferee for transmission to the

department or, when the secured party receives the owner's assignment from the transferee, it shall transmit the transferee's application for a new certificate, the existing certificate, and the required fee to the department. Compliance with this section does not affect the rights of the secured party.

(5) If a security interest is reserved or created at the time of the transfer, the certificate of ownership shall be retained by or delivered to the person who becomes the secured party, and the parties shall comply with the provisions of RCW 46.12.170.

(6) If the purchaser or transferee fails or neglects to make application to transfer the certificate of ownership and license registration within fifteen days after the date of delivery of the vehicle, he or she shall on making application for transfer be assessed a twenty-five dollar penalty on the sixteenth day and two dollars additional for each day thereafter, but not to exceed one hundred dollars. The director may by rule establish conditions under which the penalty will not be assessed when an application for transfer is delayed for reasons beyond the control of the purchaser. Conditions for not assessing the penalty may be established for but not limited to delays caused by:

- (a) The department requesting additional supporting documents;
- (b) Extended hospitalization or illness of the purchaser;
- (c) Failure of a legal owner to release his or her interest;
- (d) Failure, negligence, or nonperformance of the department, auditor, or subagent;
- (e) The transferee had no knowledge of the filing of the vehicle report of sale and signs an affidavit to the fact.

Failure or neglect to make application to transfer the certificate of ownership and license registration within forty-five days after the date of delivery of the vehicle is a misdemeanor.

(7) Upon receipt of an application for reissue or replacement of a certificate of ownership and transfer of license registration, accompanied by the endorsed certificate of ownership or other documentary evidence as is deemed necessary, the department shall, if the application is in order and if all provisions relating to the certificate of ownership and license registration have been complied with, issue new certificates of title and license registration as in the case of an original issue and shall transmit the fees together with an itemized detailed report to the state treasurer.

(8) Once each quarter the department shall report to the department of revenue a list of those vehicles for which a seller's report has been received but no transfer of title has taken place.

**Sec. 3.** RCW 46.12.102 and 2005 c 331 s 1 are each amended to read as follows:

(1) An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of it to a purchaser shall not by reason of any of the provisions of this title be deemed the owner of the vehicle so as to be subject to civil liability or criminal liability for the operation of the vehicle thereafter by another person when the owner has also fulfilled both of the following requirements:

- (a) When the owner has made proper endorsement and delivery of the certificate of ownership and has delivered the certificate of registration as provided in this chapter;



(b) When the owner has delivered to the department either a properly filed report of sale that includes all of the information required in RCW 46.12.101(1) and is delivered to the department within five days of the sale of the vehicle excluding Saturdays, Sundays, and state and federal holidays, or appropriate documents for registration of the vehicle pursuant to the sale or transfer.

(2) An owner who has made a bona fide sale or transfer of a vehicle, has delivered possession of it to a purchaser, and has fulfilled the requirements of subsection (1)(a) and (b) of this section is relieved of liability and liability is transferred to the purchaser of the vehicle, for any traffic violation under this title, whether designated as a traffic infraction or classified as a criminal offense, that occurs after the date of the sale or transfer that is based on the vehicle's identification, including, but not limited to, parking infractions, high-occupancy toll lane violations, and violations recorded by automated traffic safety cameras.

(3) When a registered tow truck operator submits an abandoned vehicle report to the department for a vehicle sold at an abandoned vehicle auction, any previous owner is relieved of civil or criminal liability for the operation of the vehicle from the date of sale thereafter, and liability is transferred to the purchaser of the vehicle as listed on the abandoned vehicle report.

(4) When a transferee had no knowledge of the filing of the vehicle report of sale, he or she is relieved of civil or criminal liability for the operation of the vehicle, and liability is transferred to the seller shown on the report of sale.

Passed by the Senate February 14, 2006.

Passed by the House March 7, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 292

[Senate Bill 6680]

### DRIVER'S LICENSES—BIOMETRIC MATCHING SYSTEM

AN ACT Relating to a biometric matching system for driver's licenses and identicards; and amending RCW 46.20.037.

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

**Sec. 1.** RCW 46.20.037 and 2004 c 273 s 3 are each amended to read as follows:

(1) No later than ~~((January 1, 2006,))~~ two years after full implementation of the provisions of Title II of P.L. 109-13, improved security for driver's licenses and personal identification cards (Real ID), as passed by Congress May 10, 2005, the department shall implement a voluntary biometric matching system for driver's licenses and identicards. ~~((The))~~ A biometric matching system shall be used only to verify the identity of an applicant for a renewal or duplicate driver's license or identicard by matching a biometric identifier submitted by the applicant against the biometric identifier submitted when the license was last issued. This project requires a full review by the information services board using the criteria for projects of the highest visibility and risk.

(2) ~~((The))~~ Any biometric matching system selected by the department shall be capable of highly accurate matching, and shall be compliant with biometric

standards established by the American association of motor vehicle administrators.

(3) The biometric matching system selected by the department must incorporate a process that allows the owner of a driver's license or identocard to present a personal identification number or other code along with the driver's license or identocard before the information may be verified by a third party, including a governmental entity.

(4) Upon the establishment of a biometric driver's license and identocard system as described in this section, the department shall allow every person applying for an original, renewal, or duplicate driver's license or identocard to voluntarily submit a biometric identifier. Each applicant shall be informed of all ways in which the biometric identifier may be used, all parties to whom the identifier may be disclosed and the conditions of disclosure, the expected error rates for the biometric matching system which shall be regularly updated as the technology changes or empirical data is collected, and the potential consequences of those errors. The department shall adopt rules to allow applicants to verify the accuracy of the system at the time that biometric information is submitted, including the use of at least two separate devices.

(5) The department may not disclose biometric information to the public or any governmental entity except when authorized by court order.

(6) All biometric information shall be stored with appropriate safeguards, including but not limited to encryption.

(7) The department shall develop procedures to handle instances in which the biometric matching system fails to verify the identity of an applicant for a renewal or duplicate driver's license or identocard. These procedures shall allow an applicant to prove identity without using a biometric identifier.

(8) Any person who has voluntarily submitted a biometric identifier may choose to discontinue participation in the biometric matching program at any time, provided that the department utilizes a secure procedure to prevent fraudulent requests for a renewal or duplicate driver's license or identocard. When the person discontinues participation, any previously collected biometric information shall be destroyed.

(9) ~~((If Engrossed Substitute Senate Bill No. 5428 or House Bill No. 1681 is enacted into law,))~~ This section does not apply when an applicant renews his or her driver's license or identocard by mail or electronic commerce.

Passed by the Senate March 8, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 293

[Substitute Senate Bill 6717]

### JOINT TASK FORCE ON CRIMINAL BACKGROUND CHECK PROCESSES—MEMBERSHIP

AN ACT Relating to the joint task force on criminal background check processes; reenacting and amending 2005 c 452 s 1 (uncodified); and providing an expiration date.

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

**Sec. 1.** 2005 c 452 s 1 (uncodified) is reenacted and amended to read as follows:

(1) A joint task force on criminal background check processes is established. The joint task force shall consist of the following members:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(c) The chief of the Washington state patrol, or the chief's designee;

(d) The secretary of the department of social and health services, or the secretary's designee;

(e) The state superintendent of public instruction, or the superintendent's designee;

(f) An elected sheriff or police chief, selected by the Washington association of sheriffs and police chiefs; and

(g) The following ~~((eleven))~~ twelve members, jointly appointed by the speaker of the house of representatives and the president of the senate:

(i) A representative from a nonprofit service organization that serves primarily children under sixteen years of age;

(ii) A health care provider as defined in RCW 7.70.020;

(iii) A representative from a business or organization that primarily serves persons with a developmental disability;

(iv) A representative from a local youth athletic association;

(v) A representative from the insurance industry;

(vi) A representative of the Washington association of criminal defense lawyers;

(vii) Two representatives from a local parks and recreation program; one member shall be selected by the association of Washington cities and one member shall be selected by the Washington association of counties;

~~((vii))~~ (viii) A representative from a for-profit entity that primarily serves children;

~~((viii))~~ (ix) A representative from a business or organization that primarily serves vulnerable adults;

~~((ix))~~ (x) A representative selected by the state's long-term care ombudsman; and

~~((x))~~ (xi) As a nonvoting ex officio member, a representative of an organization that serves as a clearinghouse for other nonprofit organizations in the state and that recruits volunteers and trains nonprofit boards of directors.

(2) The task force shall choose two cochairs from among its membership.

(3) The task force shall review and make recommendations to the legislature and the governor regarding criminal background check policy in Washington state. In preparing the recommendations, the committee shall, at a minimum, review the following issues:

(a) What state and federal statutes require regarding criminal background checks, and determine whether any changes should be made;

(b) What criminal offenses are currently reportable through the criminal background check program, and determine whether any changes should be made;

(c) What information is available through the Washington state patrol and the federal bureau of investigation criminal background check systems, and determine whether any changes should be made;

(d) What are the best practices among organizations for obtaining criminal background checks on their employees and volunteers;

(e) What is the feasibility and costs for businesses and organizations to do periodic background checks;

(f) What is the feasibility of requiring all businesses and organizations, including nonprofit entities, to conduct criminal background checks for all employees, contractors, agents, and volunteers who have regularly scheduled supervised or unsupervised access to children, persons with a developmental disability, or vulnerable adults;

(g) What is the feasibility of establishing a state registration program for private youth sports coaches under which some or all of such persons are required to obtain and disclose to prospective clients and employers a copy of the results of their fingerprint-based criminal background checks;

(h) A review of the practices of the department of social and health services with respect to checking the backgrounds of its employees, applicants for employment, and candidates for promotion; and

(i) A review of the benefits and obstacles of implementing a criminal history record information background check program created by the national child protection act of 1993. The national child protection act of 1993 increases the availability of criminal history record information background checks for employers who have employees or volunteers who work with children, elderly persons, or persons with disabilities.

(4) The task force, where feasible, may consult with individuals from the public and private sector.

(5) The task force shall use legislative facilities and staff from senate committee services and the house office of program research.

(6) The task force shall report its findings and recommendations to the legislature by December 31, (~~2005~~) 2006.

**NEW SECTION. Sec. 2.** This act expires January 31, 2007.

Passed by the Senate February 14, 2006.

Passed by the House March 3, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 294

[Senate Bill 6720]

### CRIMINAL HISTORY RECORD INFORMATION

AN ACT Relating to reporting requirements for criminal history record information; and amending RCW 43.43.700, 43.43.705, 43.43.715, 43.43.725, 43.43.730, 43.43.735, 43.43.740, and 43.43.810.

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

**Sec. 1.** RCW 43.43.700 and 1998 c 141 s 2 are each amended to read as follows:

There is hereby established within the Washington state patrol a section on identification(~~(, child abuse, vulnerable adult abuse,))~~ and criminal history hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

~~((The section shall also contain like information concerning persons, over the age of eighteen years, who have been found to have physically abused or sexually abused or exploited a child pursuant to a dependency proceeding under chapter 13.34 RCW, or to have abused or financially exploited a vulnerable adult pursuant to a protection proceeding under chapter 74.34 RCW.))~~

**Sec. 2.** RCW 43.43.705 and 1999 c 151 s 1101 are each amended to read as follows:

Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies(~~(, or to the department of social and health services, hereinafter referred to as the "department",))~~ a transcript of the criminal (~~(offender))~~ history record information(~~(, dependency record information, or protection proceeding record information))~~ available pertaining to any person of whom the section has a record.

For the purposes of RCW 43.43.700 through 43.43.785 the following words and phrases shall have the following meanings:

"Criminal (~~(offender))~~ history record information" includes, and shall be restricted to identifying data and (~~(public record))~~ information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal (~~(offender))~~ history record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

~~("Dependency record information" includes and shall be restricted to identifying data regarding a person, over the age of eighteen, who was a party to a dependency proceeding brought under chapter 13.34 RCW and who has been found, pursuant to such dependency proceeding, to have sexually abused or exploited or physically abused a child.~~

~~"Protection proceeding record information" includes and shall be restricted to identifying data regarding a person, over eighteen, who was a respondent to a~~

~~protection proceeding brought under chapter 74.34 RCW and who has been found pursuant to such a proceeding to have abused or financially exploited a vulnerable adult.)~~

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760~~((3))~~ (4). The applicant may appeal such determination by notifying the chief in writing within thirty days. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW and in accordance with procedures for adjudicative proceedings under chapter 34.05 RCW.

**Sec. 3.** RCW 43.43.715 and 1989 c 334 s 8 are each amended to read as follows:

The section shall, consistent with the procedures set forth in chapter 152, Laws of 1972 ex. sess., cooperate with all other criminal justice agencies~~(, and the department,)~~ within or without the state, in an exchange of information regarding convicted criminals and those suspected of or wanted for the commission of crimes~~(, and persons who are the subject of dependency record information or protection proceeding record information,)~~ to the end that proper identification may rapidly be made and the ends of justice served.

**Sec. 4.** RCW 43.43.725 and 1985 c 201 s 11 are each amended to read as follows:

Any copy of a criminal ~~((offender))~~ history record, photograph, fingerprint, or other paper or document in the files of the section, ~~((including dependency record information,))~~ certified by the chief or his or her designee to be a true and complete copy of the original or of information on file with the section, shall be admissible in evidence in any court of this state pursuant to the provisions of RCW 5.44.040.

**Sec. 5.** RCW 43.43.730 and 1985 c 201 s 12 are each amended to read as follows:

(1) Any individual shall have the right to inspect criminal ~~((offender))~~ history record information~~((, or dependency record information,))~~ on file with the section which refers to ~~((him))~~ the individual. If ~~((an))~~ the individual believes such information to be inaccurate or incomplete, he or she may request the section to purge, modify or supplement it and to advise such persons or agencies who have received his or her record and whom the individual designates to modify it accordingly. Should the section decline to so act, or should the individual believe the section's decision to be otherwise unsatisfactory, the individual may appeal such decision to the superior court in the county in which he or she is resident, or the county from which the disputed record emanated or Thurston county. The court shall in such case conduct a de novo hearing, and may order such relief as it finds to be just and equitable.

(2) The section may prescribe reasonable hours and a place for inspection, and may impose such additional restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the

identities of those who seek to inspect them: PROVIDED, That the section may charge a reasonable fee for fingerprinting.

**Sec. 6.** RCW 43.43.735 and 1991 c 3 s 297 are each amended to read as follows:

(1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, to cause the photographing and fingerprinting of all adults and juveniles lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor. (a) When such juveniles are brought directly to a juvenile detention facility, the juvenile court administrator is also authorized, but not required, to cause the photographing, fingerprinting, and record transmittal to the appropriate law enforcement agency; and (b) a further exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.

(2) It shall be the right, but not the duty, of the sheriff or director of public safety of every county, and the chief of police of every city or town, and every chief officer of other law enforcement agencies operating within this state to photograph and record the fingerprints of all adults lawfully arrested (~~all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information~~).

(3) Such sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may record, in addition to photographs and fingerprints, the palmprints, soleprints, toeprints, or any other identification data of all persons whose photograph and fingerprints are required or allowed to be taken under this section (~~all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information~~;) when in the discretion of such law enforcement officers it is necessary for proper identification of the arrested person or the investigation of the crime with which he is charged.

~~((4) It shall be the duty of the department of health or the court having jurisdiction over the dependency action and protection proceedings under chapter 74.34 RCW to cause the fingerprinting of all persons who are the subject of a disciplinary board final decision, dependency record information, protection proceeding record information, or to obtain other necessary identifying information, as specified by the section in rules adopted under chapter 34.05 RCW to carry out the provisions of this subsection.~~

~~(5) The court having jurisdiction over the dependency or protection proceeding action may obtain and record, in addition to fingerprints, the photographs, palmprints, soleprints, toeprints, or any other identification data of all persons who are the subject of dependency record information or protection proceeding record information, when in the discretion of the court it is necessary for proper identification of the person.~~)

**Sec. 7.** RCW 43.43.740 and 1989 c 334 s 10 are each amended to read as follows:

(1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state to furnish within

seventy-two hours from the time of arrest to the section the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to RCW 43.43.735.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. Said records shall remain in the possession of the law enforcement agency as part of the identification record and are not returnable to the subjects thereof.

~~((3) It shall be the duty of the court having jurisdiction over the dependency action to furnish dependency record information, obtained pursuant to RCW 43.43.735, to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a finding, pursuant to a dependency action brought under chapter 13.34 RCW, that a person over the age of eighteen, who is a party to the dependency action, has sexually abused or exploited or physically abused a child.~~

~~(4) The court having jurisdiction over the dependency or protection proceeding action may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. These records shall remain in the possession of the court as part of the identification record and are not returnable to the subjects thereof.~~

~~(5) It shall be the duty of a court having jurisdiction over the protection proceeding to furnish protection proceeding record information, obtained under RCW 43.43.735 to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a final order pursuant to a protection proceeding brought under chapter 74.34 RCW, that a person over the age of eighteen, who is the respondent to the protection proceeding, has abused or financially exploited a vulnerable adult as that term is defined in RCW 43.43.830.~~

~~(6) The section shall administer periodic compliance audits for the department of licensing and each court having jurisdiction over dependency and protection proceeding actions as defined in chapters 13.34 and 74.34 RCW, respectively. Such audits shall ensure that all dependency record information regarding persons over the age of eighteen years has been furnished to the section as required in subsection (3) of this section.)~~

**Sec. 8.** RCW 43.43.810 and 1977 ex.s. c 314 s 17 are each amended to read as follows:

Any person who willfully requests, obtains or seeks to obtain criminal ~~((offender))~~ history record information under false pretenses, or who willfully communicates or seeks to communicate criminal ~~((offender))~~ history record information to any agency or person except in accordance with chapter 152, Laws of 1972 ex. sess., or any member, officer, employee or agent of the section, the council or any participating agency, who willfully falsifies criminal ~~((offender))~~ history record information, or any records relating thereto, shall for each such offense be guilty of a misdemeanor.

Passed by the Senate February 13, 2006.

Passed by the House March 1, 2006.



Approved by the Governor March 28, 2006.  
Filed in Office of Secretary of State March 28, 2006.

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**CHAPTER 295**

[Substitute Senate Bill 6806]

**DOMESTIC VIOLENCE HOPE CARD STUDY COMMITTEE**

AN ACT Relating to domestic violence; creating new sections; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** It is the intent of the legislature to study the advisability of providing to all recipients of protection orders, who are victims of domestic violence, wallet-size cards that would provide to law enforcement all information necessary to enforce the protection order.

**NEW SECTION. Sec. 2.** (1) The domestic violence hope card study committee is established to review the advisability of providing wallet-size cards bearing information regarding protection orders to victims of domestic violence within Washington state. The committee shall collaborate with the Washington state gender and justice commission and shall be composed of:

- (a) Two senators, one from each caucus in the senate;
- (b) Two representatives, one from each caucus in the house of representatives;
- (c) One representative of the Washington state attorney general's office;
- (d) One police chief appointed by the Washington association of sheriffs and police chiefs;
- (e) One elected sheriff appointed by the Washington association of sheriffs and police chiefs;
- (f) One representative of the Washington state patrol;
- (g) One representative of the administrative office of the courts;
- (h) One representative of a tribal government appointed by the governor;
- (i) One representative of the Washington association of criminal defense lawyers;
- (j) One representative of a statewide domestic violence advocacy group appointed by the governor;
- (k) One representative who is an advocate for domestic violence victims on tribal lands appointed by the governor;
- (l) One representative of the office of crime victims advocacy;
- (m) One representative of the Washington association of prosecuting attorneys; and
- (n) One representative of the Washington state association of county clerks.

(2) The committee shall review and analyze hope card programs operating in Washington state and other states. Specifically, the committee shall review:

- (a) The practicality of requiring the statewide distribution of wallet-size cards to victims of domestic violence that document the existence of a protection order and provide identifying information regarding the respondent, including a photograph, and contents of a protection order in addition to contact information for the victim to utilize the court system, gain access to domestic violence services, and contact law enforcement;

(b) The information required to be provided to victims of domestic violence under current law;

(c) Whether victims of domestic violence are receiving this information;

(d) Whether any additional information should be included on the cards provided to domestic violence victims;

(e) Costs, administrative, and capital equipment issues involved with the implementation of such a program;

(f) How nonstate funds could be utilized to pay for the costs involved in implementation of such a program;

(g) How such a program could be implemented statewide;

(h) Confidentiality, privacy, and safety concerns that may arise in the implementation of such a program; and

(i) Any other issues the committee finds relevant to the distribution of hope cards to victims of domestic violence.

(3) Staff support shall be provided by the office of crime victims advocacy.

(4) Legislative members of the study committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) A committee report, containing findings and proposed legislation, if any, shall be delivered to the full legislature not later than December 31, 2006.

NEW SECTION. Sec. 3. This act expires June 30, 2007.

Passed by the Senate March 7, 2006.

Passed by the House March 3, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

## CHAPTER 296

[Substitute Senate Bill 6851]

### MOBILE HOME PARKS—NOTICE OF CLOSURE

AN ACT Relating to closure of mobile home parks and manufactured housing communities; amending RCW 59.21.030 and 59.20.060; and creating new sections.

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

**Sec. 1.** RCW 59.21.030 and 1995 c 122 s 7 are each amended to read as follows:

(1) Notice required by RCW 59.20.080 before park closure or conversion of the park, whether twelve months or longer, shall be given to the director and all tenants in writing, and posted at all park entrances. The notice required by RCW 59.20.080 must also meet the following requirements:

(a) A copy of the closure notice must be provided with all month-to-month rental agreements signed after the original ~~park~~ closure notice date((-);

(b) Notice to the director must include: (i) A good faith estimate of the timetable for removal of the mobile homes (~~and~~); (ii) the reason for closure((-); and (iii) a list of the names and mailing addresses of the current registered park tenants. Notice required under this subsection must be sent to the

director within ten business days of the date notice was given to all tenants as required by RCW 59.20.080; and

(c) Notice must (~~also~~) be recorded in the office of the county auditor for the county where the mobile home park is located.

(2) The department must mail every tenant an application and information on relocation assistance within ten business days of receipt of the notice required in subsection (1) of this section.

**Sec. 2.** RCW 59.20.060 and 2002 c 63 s 1 are each amended to read as follows:

(1) Any mobile home space tenancy regardless of the term, shall be based upon a written rental agreement, signed by the parties, which shall contain:

(a) The terms for the payment of rent, including time and place, and any additional charges to be paid by the tenant. Additional charges that occur less frequently than monthly shall be itemized in a billing to the tenant;

(b) Reasonable rules for guest parking which shall be clearly stated;

(c) The rules and regulations of the park;

(d) The name and address of the person who is the landlord, and if such person does not reside in the state there shall also be designated by name and address a person who resides in the county where the mobile home park is located who is authorized to act as agent for the purposes of service of notices and process. If no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered the agent;

(e) The name and address of any party who has a secured interest in the mobile home, manufactured home, or park model;

(f) A forwarding address of the tenant or the name and address of a person who would likely know the whereabouts of the tenant in the event of an emergency or an abandonment of the mobile home, manufactured home, or park model;

(g)(i) A covenant by the landlord that, except for acts or events beyond the control of the landlord, the mobile home park will not be converted to a land use that will prevent the space that is the subject of the lease from continuing to be used for its intended use for a period of three years after the beginning of the term of the rental agreement;

(ii) A rental agreement may, in the alternative, contain a statement that: "The park may be sold or otherwise transferred at any time with the result that subsequent owners may close the mobile home park, or that the landlord may close the park at any time after the required notice." The covenant or statement required by this subsection must: (A) Appear in print that is in bold face and is larger than the other text of the (~~lease and must~~) rental agreement; (B) be set off by means of a box, blank space, or comparable visual device;

(~~The requirements of this subsection shall apply to tenancies initiated after April 28, 1989~~) and (C) be located directly above the tenant's signature on the rental agreement.

(h) The terms and conditions under which any deposit or portion thereof may be withheld by the landlord upon termination of the rental agreement if any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a rental agreement;

(i) A listing of the utilities, services, and facilities which will be available to the tenant during the tenancy and the nature of the fees, if any, to be charged;

(j) A description of the boundaries of a mobile home space sufficient to inform the tenant of the exact location of the tenant's space in relation to other tenants' spaces;

(k) A statement of the current zoning of the land on which the mobile home park is located; and

(l) A statement of the expiration date of any conditional use, temporary use, or other land use permit subject to a fixed expiration date that is necessary for the continued use of the land as a mobile home park.

(2) Any rental agreement executed between the landlord and tenant shall not contain any provision:

(a) Which allows the landlord to charge a fee for guest parking unless a violation of the rules for guest parking occurs: PROVIDED, That a fee may be charged for guest parking which covers an extended period of time as defined in the rental agreement;

(b) Which authorizes the towing or impounding of a vehicle except upon notice to the owner thereof or the tenant whose guest is the owner of the vehicle;

(c) Which allows the landlord to alter the due date for rent payment or increase the rent: (i) During the term of the rental agreement if the term is less than one year, or (ii) more frequently than annually if the term is for one year or more: PROVIDED, That a rental agreement may include an escalation clause for a pro rata share of any increase in the mobile home park's real property taxes or utility assessments or charges, over the base taxes or utility assessments or charges of the year in which the rental agreement took effect, if the clause also provides for a pro rata reduction in rent or other charges in the event of a reduction in real property taxes or utility assessments or charges, below the base year: PROVIDED FURTHER, That a rental agreement for a term exceeding one year may provide for annual increases in rent in specified amounts or by a formula specified in such agreement;

(d) By which the tenant agrees to waive or forego rights or remedies under this chapter;

(e) Allowing the landlord to charge an "entrance fee" or an "exit fee." However, an entrance fee may be charged as part of a continuing care contract as defined in RCW 70.38.025;

(f) Which allows the landlord to charge a fee for guests: PROVIDED, That a landlord may establish rules charging for guests who remain on the premises for more than fifteen days in any sixty-day period;

(g) By which the tenant agrees to waive or forego homestead rights provided by chapter 6.13 RCW. This subsection shall not prohibit such waiver after a default in rent so long as such waiver is in writing signed by the husband and wife or by an unmarried claimant and in consideration of the landlord's agreement not to terminate the tenancy for a period of time specified in the waiver if the landlord would be otherwise entitled to terminate the tenancy under this chapter; or

(h) By which, at the time the rental agreement is entered into, the landlord and tenant agree to the selection of a particular arbitrator.

**NEW SECTION. Sec. 3.** The department of community, trade, and economic development, working in collaboration with mobile home park associations and other interested parties, shall provide notice of this act to mobile or manufactured home landlords or park owners by mailing written

notification to all known park landlords and owners, and by other reasonable means. Notification must take place before July 1, 2006.

**NEW SECTION. Sec. 4.** With respect to written mobile or manufactured home space rental agreements in effect on the effective date of this act, section 2 of this act applies prospectively when the term of the tenancy under the agreement is renewed.

Passed by the Senate March 7, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 28, 2006.

Filed in Office of Secretary of State March 28, 2006.

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## CHAPTER 297

[Substitute House Bill 2987]

### MOTOR VEHICLES—GROSS WEIGHT VIOLATIONS

AN ACT Relating to vehicle gross weight violations; and amending RCW 46.44.105.

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

**Sec. 1.** RCW 46.44.105 and 2002 c 254 s 1 are each amended to read as follows:

(1) Violation of any of the provisions of this chapter is a traffic infraction, and upon the first finding thereof shall be assessed a basic penalty of not less than fifty dollars; and upon a second finding thereof shall be assessed a basic penalty of not less than seventy-five dollars; and upon a third or subsequent finding shall be assessed a basic penalty of not less than one hundred dollars.

(2) In addition to the penalties imposed in subsection (1) of this section, any person violating RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each pound overweight, as follows:

(a) One pound through four thousand pounds overweight is three cents for each pound;

(b) Four thousand one pounds through ten thousand pounds overweight is one hundred twenty dollars plus twelve cents per pound for each additional pound over four thousand pounds overweight;

(c) Ten thousand one pounds through fifteen thousand pounds overweight is eight hundred forty dollars plus sixteen cents per pound for each additional pound over ten thousand pounds overweight;

(d) Fifteen thousand one pounds through twenty thousand pounds overweight is one thousand six hundred forty dollars plus twenty cents per pound for each additional pound over fifteen thousand pounds overweight;

(e) Twenty thousand one pounds and more is two thousand six hundred forty dollars plus thirty cents per pound for each additional pound over twenty thousand pounds overweight.

Upon a first violation in any calendar year, the court may suspend the penalty for five hundred pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a two thousand pound suspension. In no case may the basic penalty assessed in subsection (1) of this section or the additional penalty assessed in subsection (2) of this section, except as provided for the first violation, be suspended.

(3) Whenever any vehicle or combination of vehicles is involved in two violations of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 during any twelve-month period, the court may suspend the certificate of license registration of the vehicle or combination of vehicles for not less than thirty days. Upon a third or succeeding violation ~~((in))~~ of RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095, during any twelve-month period or a third or succeeding out-of-service violation, as defined in the code of federal regulations as of the effective date of this act, during any twelve-month period, the court shall suspend the certificate of license registration for not less than thirty days. Whenever the certificate of license registration is suspended, the court shall secure such certificate and immediately forward the same to the director with information concerning the suspension.

(4) Any person found to have violated any posted limitations of a highway or section of highway shall be assessed a monetary penalty of not less than one hundred and fifty dollars, and the court shall in addition thereto upon second violation within a twelve-month period involving the same power unit, suspend the certificate of license registration for not less than thirty days.

(5) It is unlawful for the driver of a vehicle to fail or refuse to stop and submit the vehicle and load to a weighing, or to fail or refuse, when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section. It is unlawful for a driver of a commercial motor vehicle as defined in RCW 46.32.005, other than the driver of a bus as defined in RCW 46.32.005(2) or a vehicle with a gross vehicle or combination weight not over sixteen thousand pounds and not transporting hazardous materials in accordance with RCW 46.32.005(3), to fail or refuse to stop at a weighing station when proper traffic control signs indicate scales are open. However, unladen tow trucks regardless of weight and farm vehicles carrying farm produce with a gross vehicle or combination weight not over twenty-six thousand pounds may fail or refuse to stop at a weighing station when proper traffic control signs indicate scales are open.

Any police officer is authorized to require the driver of any vehicle or combination of vehicles to stop and submit to a weighing either by means of a portable or stationary scale and may require that the vehicle be driven to the nearest public scale. Whenever a police officer, upon weighing a vehicle and load, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable location and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit permitted by law. If the vehicle is loaded with grain or other perishable commodities, the driver shall be permitted to proceed without removing any of the load, unless the gross weight of the vehicle and load exceeds by more than ten percent the limit permitted by this chapter. The owner or operator of the vehicle shall care for all materials unloaded at the risk of the owner or operator.

Any vehicle whose driver or owner represents that the vehicle is disabled or otherwise unable to proceed to a weighing location shall have its load sealed or otherwise marked by any police officer. The owner or driver shall be directed that upon completion of repairs, the vehicle shall submit to weighing with the load and markings and/or seal intact and undisturbed. Failure to report for weighing, appearing for weighing with the seal broken or the markings

disturbed, or removal of any cargo prior to weighing is unlawful. Any person so convicted shall be fined one thousand dollars, and in addition the certificate of license registration shall be suspended for not less than thirty days.

(6) Any other provision of law to the contrary notwithstanding, district courts having venue have concurrent jurisdiction with the superior courts for the imposition of any penalties authorized under this section.

(7) For the purpose of determining additional penalties as provided by subsection (2) of this section, "overweight" means the poundage in excess of the maximum allowable gross weight or axle/axle grouping weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047, 46.44.091, and 46.44.095.

(8) The penalties provided in subsections (1) and (2) of this section shall be remitted as provided in chapter 3.62 RCW or RCW 10.82.070. For the purpose of computing the basic penalties and additional penalties to be imposed under subsections (1) and (2) of this section, the convictions shall be on the same vehicle or combination of vehicles within a twelve-month period under the same ownership.

(9) Any state patrol officer or any weight control officer who finds any person operating a vehicle or a combination of vehicles in violation of the conditions of a permit issued under RCW 46.44.047, 46.44.090, and 46.44.095 may confiscate the permit and forward it to the state department of transportation which may return it to the permittee or revoke, cancel, or suspend it without refund. The department of transportation shall keep a record of all action taken upon permits so confiscated, and if a permit is returned to the permittee the action taken by the department of transportation shall be endorsed thereon. Any permittee whose permit is suspended or revoked may upon request receive a hearing before the department of transportation or person designated by that department. After the hearing the department of transportation may reinstate any permit or revise its previous action.

Every permit issued as provided for in this chapter shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of any authority granting such a permit.

Upon the third finding within a calendar year of a violation of the requirements and conditions of a permit issued under RCW 46.44.095, the permit shall be canceled, and the canceled permit shall be immediately transmitted by the court or the arresting officer to the department of transportation. The vehicle covered by the canceled permit is not eligible for a new permit for a period of thirty days.

(10) For the purposes of determining gross weights the actual scale weight taken by the arresting officer is prima facie evidence of the total gross weight.

(11) It is a traffic infraction to direct the loading of a vehicle with knowledge that it violates the requirements in RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and that it is to be operated on the public highways of this state.

(12) The chief of the state patrol, with the advice of the department, may adopt reasonable rules to aid in the enforcement of this section.

**NEW SECTION. Sec. 2.** The Washington state patrol shall develop recommendations regarding the most effective methods for tracking the violations that lead to suspensions of certificates of license registration under

RCW 46.44.105(3). The Washington state patrol shall also develop recommendations for improving the safe operation of commercial motor vehicles on Washington's highways and roads. In developing these recommendations, the Washington state patrol shall consult with, at a minimum, the following individuals: (1) A representative of the administrative office of the courts; (2) a representative of the department of licensing; (3) a representative of the trucking industry; and (4) a member of the Washington utilities and transportation commission. The recommendations shall be submitted to the transportation committees of the legislature by December 1, 2006.

Passed by the House February 14, 2006.

Passed by the Senate March 2, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 298

[Engrossed Substitute Senate Bill 6230]

### SALES AND USE TAXES—PUBLIC FACILITIES DISTRICTS

AN ACT Relating to extending the state sales and use tax credit for public facilities districts created before September 1, 2006; and amending RCW 82.14.390.

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

**Sec. 1.** RCW 82.14.390 and 2002 c 363 s 4 are each amended to read as follows:

(1) Except as provided in subsection (6) of this section, the governing body of a public facilities district (a) created before July 31, 2002, under chapter 35.57 or 36.100 RCW that commences construction of a new regional center, or improvement or rehabilitation of an existing new regional center, before January 1, 2004, or (b) created before July 1, 2006, under chapter 35.57 RCW in a county or counties in which there are no other public facilities districts on the effective date of this section and in which the total population in the public facilities district is greater than ninety thousand that commences construction of a new regional center before February 1, 2007, may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the public facilities district. The rate of tax shall not exceed 0.033 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.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the county at no cost to the public facilities district.

(3) No tax may be collected under this section before August 1, 2000. The tax imposed in this section shall expire when the bonds issued for the construction of the regional center and related parking facilities are retired, but not more than twenty-five years after the tax is first collected.



(4) Moneys collected under this section shall only be used for the purposes set forth in RCW 35.57.020 and must be matched with an amount from other public or private sources equal to thirty-three percent of the amount collected under this section, provided that amounts generated from nonvoter approved taxes authorized under chapter 35.57 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW shall not constitute a public or private source. For the purpose of this section, public or private sources includes, but is not limited to cash or in-kind contributions used in all phases of the development or improvement of the regional center, land that is donated and used for the siting of the regional center, cash or in-kind contributions from public or private foundations, or amounts attributed to private sector partners as part of a public and private partnership agreement negotiated by the public facilities district.

(5) The combined total tax levied under this section shall not be greater than 0.033 percent. If both a public facilities district created under chapter 35.57 RCW and a public facilities district created under chapter 36.100 RCW impose a tax under this section, the tax imposed by a public facilities district created under chapter 35.57 RCW shall be credited against the tax imposed by a public facilities district created under chapter 36.100 RCW.

(6) A public facilities district created under chapter 36.100 RCW is not eligible to impose the tax under this section if the legislative authority of the county where the public facilities district is located has imposed a sales and use tax under RCW 82.14.0485 or 82.14.0494.

Passed by the Senate March 7, 2006.

Passed by the House March 8, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 299

[Engrossed House Bill 1383]

### PUBLIC EMPLOYEES' BENEFITS BOARD—HEALTH PLANS

AN ACT Relating to the public employees' benefits board; amending RCW 41.05.006; and reenacting and amending RCW 41.05.065.

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

**Sec. 1.** RCW 41.05.006 and 1988 c 107 s 2 are each amended to read as follows:

(1) The legislature recognizes that (a) the state is a major purchaser of health care services, (b) the increasing costs of such health care services are posing and will continue to pose a great financial burden on the state, (c) it is the state's policy, consistent with the best interests of the state, to provide comprehensive health care as an employer, to state employees and officials and their dependents and to those who are dependent on the state for necessary medical care, and (d) it is imperative that the state begin to develop effective and efficient health care delivery systems and strategies for procuring health care services in order for the state to continue to purchase the most comprehensive health care possible.

(2) It is therefore the purpose of this chapter to establish the Washington state health care authority whose purpose shall be to (a) develop health care benefit programs(;) that provide access to at least one comprehensive benefit

plan funded to the fullest extent possible by the employer, (~~that provide comprehensive health care~~) and a health savings account/high deductible health plan option as defined in section 1201 of the medicare prescription drug improvement and modernization act of 2003, as amended, for eligible state employees, officials, and their dependents, and (b) study all state-purchased health care, alternative health care delivery systems, and strategies for the procurement of health care services and make recommendations aimed at minimizing the financial burden which health care poses on the state, its employees, and its charges, while at the same time allowing the state to provide the most comprehensive health care options possible.

**Sec. 2.** RCW 41.05.065 and 2005 c 518 s 920 and 2005 c 195 s 1 are each reenacted and amended to read as follows:

(1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state. However, liability insurance shall not be made available to dependents.

(2) The board shall develop employee benefit plans that include comprehensive health care benefits for all employees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, such as smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education;

(d) Utilization review procedures including, but not limited to a cost-efficient method for prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers;

(e) Effective coordination of benefits;

(f) Minimum standards for insuring entities; and

(g) Minimum scope and content of public employee benefit plans to be offered to enrollees participating in the employee health benefit plans. To maintain the comprehensive nature of employee health care benefits, employee eligibility criteria related to the number of hours worked and the benefits provided to employees shall be substantially equivalent to the state employees' health benefits plan and eligibility criteria in effect on January 1, 1993. Nothing in this subsection (2)(g) shall prohibit changes or increases in employee point-of-service payments or employee premium payments for benefits or the administration of a high deductible health plan in conjunction with a health savings account.

(3) The board shall design benefits and determine the terms and conditions of employee and retired employee participation and coverage, including establishment of eligibility criteria. The same terms and conditions of participation and coverage, including eligibility criteria, shall apply to state employees and to school district employees and educational service district employees.

(4) The board may authorize premium contributions for an employee and the employee's dependents in a manner that encourages the use of cost-efficient managed health care systems. During the 2005-2007 fiscal biennium, the board may only authorize premium contributions for an employee and the employee's dependents that are the same, regardless of an employee's status as represented or nonrepresented by a collective bargaining unit under the personnel system reform act of 2002. The board shall require participating school district and educational service district employees to pay at least the same employee premiums by plan and family size as state employees pay.

(5) The board shall develop a health savings account option for employees that conform to section 223, Part VII of subchapter B of chapter 1 of the internal revenue code of 1986. The board shall comply with all applicable federal standards related to the establishment of health savings accounts.

(6) Notwithstanding any other provision of this chapter, the board shall develop a high deductible health plan to be offered in conjunction with a health savings account developed under subsection (5) of this section.

(7) Employees shall choose participation in one of the health care benefit plans developed by the board and may be permitted to waive coverage under terms and conditions established by the board.

~~((6))~~ (8) The board shall review plans proposed by insuring entities that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by insuring entities holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall promulgate rules setting forth criteria by which it shall evaluate the plans.

~~((7))~~ (9) Before January 1, 1998, the public employees' benefits board shall make available one or more fully insured long-term care insurance plans that comply with the requirements of chapter 48.84 RCW. Such programs shall be made available to eligible employees, retired employees, and retired school employees as well as eligible dependents which, for the purpose of this section, includes the parents of the employee or retiree and the parents of the spouse of the employee or retiree. Employees of local governments and employees of political subdivisions not otherwise enrolled in the public employees' benefits board sponsored medical programs may enroll under terms and conditions established by the administrator, if it does not jeopardize the financial viability of the public employees' benefits board's long-term care offering.

(a) Participation of eligible employees or retired employees and retired school employees in any long-term care insurance plan made available by the public employees' benefits board is voluntary and shall not be subject to binding arbitration under chapter 41.56 RCW. Participation is subject to reasonable underwriting guidelines and eligibility rules established by the public employees' benefits board and the health care authority.

(b) The employee, retired employee, and retired school employee are solely responsible for the payment of the premium rates developed by the health care authority. The health care authority is authorized to charge a reasonable administrative fee in addition to the premium charged by the long-term care insurer, which shall include the health care authority's cost of administration, marketing, and consumer education materials prepared by the health care authority and the office of the insurance commissioner.

(c) To the extent administratively possible, the state shall establish an automatic payroll or pension deduction system for the payment of the long-term care insurance premiums.

(d) The public employees' benefits board and the health care authority shall establish a technical advisory committee to provide advice in the development of the benefit design and establishment of underwriting guidelines and eligibility rules. The committee shall also advise the board and authority on effective and cost-effective ways to market and distribute the long-term care product. The technical advisory committee shall be comprised, at a minimum, of representatives of the office of the insurance commissioner, providers of long-term care services, licensed insurance agents with expertise in long-term care insurance, employees, retired employees, retired school employees, and other interested parties determined to be appropriate by the board.

(e) The health care authority shall offer employees, retired employees, and retired school employees the option of purchasing long-term care insurance through licensed agents or brokers appointed by the long-term care insurer. The authority, in consultation with the public employees' benefits board, shall establish marketing procedures and may consider all premium components as a part of the contract negotiations with the long-term care insurer.

(f) In developing the long-term care insurance benefit designs, the public employees' benefits board shall include an alternative plan of care benefit, including adult day services, as approved by the office of the insurance commissioner.

(g) The health care authority, with the cooperation of the office of the insurance commissioner, shall develop a consumer education program for the eligible employees, retired employees, and retired school employees designed to provide education on the potential need for long-term care, methods of financing long-term care, and the availability of long-term care insurance products including the products offered by the board.

(h) By December 1998, the health care authority, in consultation with the public employees' benefits board, shall submit a report to the appropriate committees of the legislature, including an analysis of the marketing and distribution of the long-term care insurance provided under this section.

Passed by the House February 8, 2006.

Passed by the Senate March 1, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 300

[Substitute Senate Bill 6874]

## TAX INCENTIVES—TIMBER PRODUCTS

AN ACT Relating to tax incentives for persons who extract, manufacture, or process timber and timber products; amending RCW 34.05.030, 82.04.230, 82.04.280, 82.04.280, 82.04.440, 82.32.590, and 82.32.600; amending 2003 c 149 s 12 (uncodified); reenacting and amending RCW 82.04.260; adding a new section to chapter 82.04 RCW; adding a new section to chapter 76.09 RCW; adding a new section to chapter 82.32 RCW; providing effective dates; providing a contingent effective date; and providing a contingent expiration date.

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

**Sec. 1.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are each reenacted and amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) Seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of 0.138 percent;

(c) Dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured multiplied by the rate of 0.138 percent. As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record;

(d) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(e) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to

the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be

determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(c) For the purposes of this subsection (11), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (11) must report as required under RCW 82.32.545.

(e) This subsection (11) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under RCW 82.32.550.

(12)(a) Until July 1, 2024, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business shall, in the case of extractors, be

equal to the value of products, including byproducts, extracted, or in the case of extractors for hire, be equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business shall, in the case of manufacturers, be equal to the value of products, including byproducts, manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(c) Until July 1, 2024, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; or (iii) wood products manufactured by that person from timber or timber products; as to such persons the amount of the tax with respect to the business shall be equal to the gross proceeds of sales of the timber, timber products, or wood products multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

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

(i) "Timber products" means logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber; pulp; and recycled paper products.

(ii) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; and wood windows.

**NEW SECTION, Sec. 2.** A new section is added to chapter 82.04 RCW to be codified between RCW 82.04.260 and 82.04.263 to read as follows:

(1) In addition to the taxes imposed under RCW 82.04.260(12), a surcharge is imposed on those persons who are subject to any of the taxes imposed under RCW 82.04.260(12). Except as otherwise provided in this section, the surcharge is equal to 0.052 percent added to the rates provided in RCW 82.04.260(12) (a), (b), and (c).

(2) All receipts from the surcharge imposed under this section shall be deposited into the forest and fish support account created in section 3 of this act.

(3)(a) The surcharge imposed under this section shall be suspended if:

(i) Receipts from the surcharge total at least eight million dollars during any fiscal biennium; or

(ii) The office of financial management certifies to the department that the federal government has appropriated at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington for any federal fiscal year.

(b)(i) The suspension of the surcharge under (a)(i) of this subsection (3) shall take effect on the first day of the calendar month that is at least thirty days after the end of the month during which the department determines that receipts from the surcharge total at least eight million dollars during the fiscal biennium.



The surcharge shall be imposed again at the beginning of the following fiscal biennium.

(ii) The suspension of the surcharge under (a)(ii) of this subsection (3) shall take effect on the later of the first day of October of any federal fiscal year for which the federal government appropriates at least two million dollars for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington, or the first day of a calendar month that is at least thirty days following the date that the office of financial management makes a certification to the department under subsection (5) of this section. The surcharge shall be imposed again on the first day of the following July.

(4)(a) If, by October 1st of any federal fiscal year, the office of financial management certifies to the department that the federal government has appropriated funds for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington but the amount of the appropriation is less than two million dollars, the department shall adjust the surcharge in accordance with this subsection.

(b) The department shall adjust the surcharge by an amount that the department estimates will cause the amount of funds deposited into the forest and fish support account for the state fiscal year that begins July 1st and that includes the beginning of the federal fiscal year for which the federal appropriation is made, to be reduced by twice the amount of the federal appropriation for participation in forest and fish report-related activities by federally recognized Indian tribes located within the geographical boundaries of the state of Washington.

(c) Any adjustment in the surcharge shall take effect at the beginning of a calendar month that is at least thirty days after the date that the office of financial management makes the certification under subsection (5) of this section.

(d) The surcharge shall be imposed again at the rate provided in subsection (1) of this section on the first day of the following state fiscal year unless the surcharge is suspended under subsection (3) of this section or adjusted for that fiscal year under this subsection.

(e) Adjustments of the amount of the surcharge by the department are final and shall not be used to challenge the validity of the surcharge imposed under this section.

(f) The department shall provide timely notice to affected taxpayers of the suspension of the surcharge or an adjustment of the surcharge.

(5) The office of financial management shall make the certification to the department as to the status of federal appropriations for tribal participation in forest and fish report-related activities.

**NEW SECTION. Sec. 3.** A new section is added to chapter 76.09 RCW to read as follows:

The forest and fish support account is hereby created in the state treasury. Receipts from appropriations, the surcharge imposed under RCW 82.04.260(12), and other sources must be deposited into the account. Expenditures from the account shall be used for activities pursuant to the state's implementation of the forests and fish report as defined in chapter 76.09 RCW and related activities, including, but not limited to, adaptive management, monitoring, and

participation grants to tribes, state and local agencies, and not-for-profit public interest organizations. Expenditures from the account may be made only after appropriation by the legislature.

**Sec. 4.** RCW 34.05.030 and 2002 c 354 s 225 are each amended to read as follows:

(1) This chapter shall not apply to:

- (a) The state militia, or
- (b) The board of clemency and pardons, or
- (c) The department of corrections or the indeterminate sentencing review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board or the director of personnel; ~~((e))~~

(e) To adjustments by the department of revenue of the amount of the surcharge imposed under section 2 of this act; or

(f) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to:

(a) Reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW; and

(b) Adjustments by the department of revenue of the amount of the surcharge imposed under section 2 of this act.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the Administrative Procedure Act, shall be subject to the entire act.

**Sec. 5.** RCW 82.04.230 and 1993 sp.s. c 25 s 101 are each amended to read as follows:

Upon every person engaging within this state in business as an extractor, except persons taxable as an extractor under any other provision in this chapter; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, extracted for sale or for commercial or industrial use, multiplied by the rate of 0.484 percent.

The measure of the tax is the value of the products, including byproducts, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the state.

**Sec. 6.** RCW 82.04.280 and 2004 c 24 s 6 are each amended to read as follows:

Upon every person engaging within this state in the business of: (1) Printing, and of publishing newspapers, periodicals, or magazines; (2) building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (3) extracting for hire or processing for hire, except persons taxable as extractors for hire or processors for hire under another section of this chapter; (4) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (5) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of RCW 48.05.310; (6) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the Federal Communications Commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (7) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of 0.484 percent.

As used in this section, "cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

As used in this section, "storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW, public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini storage" facilities whereby customers have direct access to individual storage areas by separate entrance. "Storage warehouse" does not include a building or structure, or that part of such building or structure, in which an activity taxable under RCW 82.04.272 is conducted.

As used in this section, "periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication.

**Sec. 7.** RCW 82.04.280 and 2003 c 149 s 4 are each amended to read as follows:

Upon every person engaging within this state in the business of: (1) Printing, and of publishing newspapers, periodicals, or magazines; (2) building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (3) extracting for hire or processing for hire, except persons taxable as extractors for hire or processors for hire under another section of this chapter; (4) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (5) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of RCW 48.05.310; (6) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the Federal Communications Commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (7) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of 0.484 percent.

As used in this section, "cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

As used in this section, "storage warehouse" means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under chapter 22.09 RCW, public garages storing automobiles, railroad freight sheds, docks and wharves, and "self-storage" or "mini storage" facilities whereby customers have direct access to individual storage areas by separate entrance. "Storage warehouse" does not include a building or structure, or that part of such building or structure, in which an activity taxable under RCW 82.04.272 is conducted.

As used in this section, "periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication.

**Sec. 8.** RCW 82.04.440 and 2005 c 301 s 3 are each amended to read as follows:

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

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), or 82.04.260 (4) ~~((~~6~~), or (~~13~~))~~, (11), or (12) with respect to selling products in this state, including those persons who are also taxable under section 2 of this act, shall be allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable as manufacturers under RCW 82.04.240 or 82.04.260 (1)(b) or (12), including those persons who are also taxable under section 2 of this act, shall be allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), or 82.04.260 (1), (2), (4), ~~((~~6~~), or (~~13~~))~~ (11), or (12), including those persons who are also taxable under section 2 of this act, with respect to extracting or manufacturing products in this state shall be allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

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

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

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

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

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240, 82.04.2909(1), 82.04.260 (1), (2), (4), ~~(and (~~13~~))~~

(11), and (12), and 82.04.294(1); ~~(and)~~ (ii) the tax imposed under section 2 of this act on persons who are engaged in business as a manufacturer; and (iii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes (i) the tax imposed on extractors in RCW 82.04.230 and 82.04.260(12); (ii) the tax imposed under section 2 of this act on persons who are engaged in business as an extractor; and (iii) similar gross receipts taxes paid to other states.

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

NEW SECTION. Sec. 9. A new section is added to chapter 82.32 RCW to read as follows:

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

(2)(a) A person who reports taxes under RCW 82.04.260(12) shall file a complete annual survey with the department. The survey is due by March 31st following any year in which a person reports taxes under RCW 82.04.260(12). The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590. The survey shall include the amount of tax reduced under the preferential rate in RCW 82.04.260(12). The survey shall also include the following information for employment positions in Washington:

(i) The number of total employment positions;

(ii) Full-time, part-time, and temporary employment positions as a percent of total employment;

(iii) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

(b) The first survey filed under this subsection shall include employment, wage, and benefit information for the twelve-month period immediately before first use of a preferential tax rate under RCW 82.04.260(12).

(c) As part of the annual survey, the department may request additional information, including the amount of investment in equipment used in the activities taxable under the preferential rate in RCW 82.04.260(12), necessary to measure the results of, or determine eligibility for, the preferential tax rate in RCW 82.04.260(12).

(d) All information collected under this section, except the amount of the tax reduced under the preferential rate in RCW 82.04.260(12), is deemed taxpayer information under RCW 82.32.330. Information on the amount of tax reduced is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request, except as provided in (e) of this subsection.

If the amount of the tax reduced as reported on the survey is different than the amount actually reduced based on the taxpayer's excise tax returns or otherwise allowed by the department, the amount actually reduced may be disclosed.

(e) Persons for whom the actual amount of the tax reduction is less than ten thousand dollars during the period covered by the survey may request the department to treat the amount of the tax reduction as confidential under RCW 82.32.330.

(3) If a person fails to submit a complete annual survey under subsection (2) of this section by the due date or any extension under RCW 82.32.590, the department shall declare the amount of taxes reduced under the preferential rate in RCW 82.04.260(12) for the period covered by the survey to be immediately due and payable. The department shall assess interest, but not penalties, on the taxes. Interest shall be assessed at the rate provided for delinquent excise taxes under this chapter, retroactively to the date the reduced taxes were due, and shall accrue until the amount of the reduced taxes is repaid.

(4) The department shall use the information from the annual survey required under subsection (2) of this section to prepare summary descriptive statistics by category. The department shall report these statistics to the legislature each year by September 1st. The requirement to prepare and report summary descriptive statistics shall cease after September 1, 2025.

(5) By November 1, 2011, and November 1, 2023, the fiscal committees of the house of representatives and the senate, in consultation with the department, shall report to the legislature on the effectiveness of the preferential tax rate provided in RCW 82.04.260(12). The report shall measure the effect of the preferential tax rate provided in RCW 82.04.260(12) on job retention, net jobs created for Washington residents, company growth, and other factors as the committees select. The report shall include a discussion of principles to apply in evaluating whether the legislature should continue the preferential tax rate provided in RCW 82.04.260(12).

**Sec. 10.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to read as follows:

(1) If the department finds that the failure of a taxpayer to file an annual survey under RCW 82.04.4452 or section 9 of this act by the due date was the result of circumstances beyond the control of the taxpayer, the department shall extend the time for filing the survey. Such extension shall be for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

(2) In making a determination whether the failure of a taxpayer to file an annual survey by the due date was the result of circumstances beyond the control of the taxpayer, the department shall be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

**Sec. 11.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to read as follows:

(1) Persons required to file surveys under RCW 82.04.4452 or section 9 of this act must electronically file with the department all surveys, returns, and any

other forms or information the department requires in an electronic format as provided or approved by the department (~~(, unless the department grants relief under subsection (2) of this section)~~). As used in this section, "returns" has the same meaning as "return" in RCW 82.32.050.

~~(2) (Upon request, the department may relieve a person of the obligations in subsection (1) of this section if the person's taxes have been reduced a cumulative total of less than one thousand dollars from all of the credits, exemptions, or preferential business and occupation tax rates, for which a person is required to file an annual survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570, 82.32.560, 82.60.070, or 82.63.020.~~

~~(3) Persons who no longer qualify for relief under subsection (2) of this section will be notified in writing by the department and must comply with subsection (1) of this section by the date provided in the notice.~~

~~(4)) Any survey, return, or any other form or information required to be filed in an electronic format under subsection (1) of this section is not filed until received by the department in an electronic format.~~

**Sec. 12.** 2003 c 149 s 12 (uncodified) is amended to read as follows:

(1)(a) This act ~~(is)~~ and section 7, chapter . . . , Laws of 2006 (section 7 of this act) are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(b) For the purposes of this section:

(i) "Commercial operation" means the same as "commencement of commercial production" as used in RCW 82.08.965.

(ii) "Semiconductor microchip fabrication" means "manufacturing semiconductor microchips" as defined in RCW 82.04.426.

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least one billion dollars.

(2) This act takes effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, as determined by the director of the department of revenue.

(3)(a) The department of revenue shall provide notice of the effective date of this act to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and this act is effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department shall make a determination that this act is no longer effective, and all taxes that would have been otherwise due shall be deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under section 2 or 5 through 10 of this act. The department is not authorized to make a second determination regarding the effective date of this act.

NEW SECTION. Sec. 13. (1) Sections 1, 3, 4 through 6, and 8 through 12 of this act take effect July 1, 2006.

(2) Section 2 of this act takes effect July 1, 2007.

(3) Section 7 of this act takes effect if the contingency in section 12 of this act occurs.



NEW SECTION. Sec. 14. Section 6 of this act expires on the date that section 7 of this act takes effect.

Passed by the Senate March 8, 2006.

Passed by the House March 7, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 301

[Substitute Senate Bill 6671]

### TAXATION—PROFESSIONAL EMPLOYER ORGANIZATIONS

AN ACT Relating to clarifying the application of taxes to the financial activities of professional employer organizations; amending RCW 82.08.010, 82.12.010, 82.80.050, and 35.102.040; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.32 RCW; adding a new section to chapter 35.102 RCW; adding a new section to chapter 82.02 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 82.04 RCW to read as follows:

(1) The provision of professional employer services by a professional employer organization is taxable under RCW 82.04.290(2).

(2) A professional employer organization is allowed a deduction from the gross income of the business derived from performing professional employer services that is equal to the portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement.

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

(a) "Client" means any person who enters into a professional employer agreement with a professional employer organization. For purposes of this subsection (3)(a), "person" has the same meaning as "buyer" in RCW 82.08.010.

(b) "Coemployer" means either a professional employer organization or a client.

(c) "Coemployment relationship" means a relationship which is intended to be an ongoing relationship rather than a temporary or project-specific one, wherein the rights, duties, and obligations of an employer which arise out of an employment relationship have been allocated between coemployers pursuant to a professional employer agreement and applicable state law. In such a coemployment relationship:

(i) The professional employer organization is entitled to enforce only such employer rights and is subject to only those obligations specifically allocated to the professional employer organization by the professional employer agreement or applicable state law;

(ii) The client is entitled to enforce those rights and obligated to provide and perform those employer obligations allocated to such client by the professional employer agreement and applicable state law; and

(iii) The client is entitled to enforce any right and obligated to perform any obligation of an employer not specifically allocated to the professional employer organization by the professional employer agreement or applicable state law.

(d) "Covered employee" means an individual having a coemployment relationship with a professional employer organization and a client who meets all of the following criteria: (i) The individual has received written notice of coemployment with the professional employer organization, and (ii) the individual's coemployment relationship is pursuant to a professional employer agreement. Individuals who are officers, directors, shareholders, partners, and managers of the client are covered employees to the extent the professional employer organization and the client have expressly agreed in the professional employer agreement that such individuals would be covered employees and provided such individuals meet the criteria of this subsection and act as operational managers or perform day-to-day operational services for the client.

(e) "Professional employer agreement" means a written contract by and between a client and a professional employer organization that provides:

(i) For the coemployment of covered employees; and

(ii) For the allocation of employer rights and obligations between the client and the professional employer organization with respect to the covered employees.

(f) "Professional employer organization" means any person engaged in the business of providing professional employer services. The following shall not be deemed to be professional employer organizations or the providing of professional employer services for purposes of this section:

(i) Arrangements wherein a person, whose principal business activity is not entering into professional employer arrangements and which does not hold itself out as a professional employer organization, shares employees with a commonly owned company within the meaning of section 414(b) and (c) of the Internal Revenue Code of 1986, as amended;

(ii) Independent contractor arrangements by which a person assumes responsibility for the product produced or service performed by such person or his or her agents and retains and exercises primary direction and control over the work performed by the individuals whose services are supplied under such arrangements; or

(iii) Providing staffing services.

(g) "Professional employer services" means the service of entering into a coemployment relationship with a client in which all or a majority of the employees providing services to a client or to a division or work unit of a client are covered employees.

(h) "Staffing services" means services consisting of a person:

(i) Recruiting and hiring its own employees;

(ii) Finding other organizations that need the services of those employees;

(iii) Assigning those employees on a temporary basis to perform work at or services for the other organizations to support or supplement the other organizations' work forces, or to provide assistance in special work situations such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects, all under the direction and supervision of the customer; and

(iv) Customarily attempting to reassign the employees to other organizations when they finish each assignment.

**Sec. 2.** RCW 82.08.010 and 2005 c 514 s 110 are each amended to read as follows:

For the purposes of this chapter:

(1) "Selling price" includes "sales price." "Sales price" means the total amount of consideration, except separately stated trade-in property of like kind, including cash, credit, property, and services, for which tangible personal property, extended warranties, or services defined as a "retail sale" under RCW 82.04.050 are sold, leased, or rented, valued in money, whether received in money or otherwise. No deduction from the total amount of consideration is allowed for the following: (a) The seller's cost of the property sold; (b) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller; (c) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges; (d) delivery charges; (e) installation charges; and (f) the value of exempt tangible personal property given to the purchaser where taxable and exempt tangible personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" shall be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department may prescribe.

"Selling price" or "sales price" does not include: Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale; interest, financing, and carrying charges from credit extended on the sale of tangible personal property, extended warranties, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(2)(a) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer, purchaser, or consumer, whether as agent, broker, or principal, except "seller" does not mean:

(i) The state and its departments and institutions when making sales to the state and its departments and institutions; or

(ii) A professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale at retail that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the seller and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in section 1 of this act.

(3) "Buyer," "purchaser," and "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, municipal corporation, quasi municipal corporation, and also the state, its departments and institutions and all political subdivisions thereof, irrespective of the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof;

(4) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing;

(5) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address;

(6) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," "sale at retail," "retail sale," "sale at wholesale," "wholesale," "business," "engaging in business," "cash discount," "successor," "consumer," "in this state" and "within this state" shall apply equally to the provisions of this chapter;

(7) For the purposes of the taxes imposed under this chapter and under chapter 82.12 RCW, "tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and prewritten computer software;

(8) "Extended warranty" has the same meaning as in RCW 82.04.050(7).

**Sec. 3.** RCW 82.12.010 and 2005 c 514 s 104 are each amended to read as follows:

For the purposes of this chapter:

(1) "Purchase price" means the same as sales price as defined in RCW 82.08.010.

(2)(a) "Value of the article used" shall be the purchase price for the article of tangible personal property, the use of which is taxable under this chapter. The term also includes, in addition to the purchase price, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules as the department may prescribe.

(b) In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the

use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe. In case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used shall be determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules as the department of revenue may prescribe.

(c) In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than one hundred eighty days in any period of three hundred sixty-five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used shall be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used, as defined in (a) of this subsection.

(d) In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used shall be determined according to the value of the ingredients of such articles.

(e) In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used shall be determined by: (i) The retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(f) In the case of an article purchased with a direct pay permit under RCW 82.32.087, the value of the article used shall be determined by the purchase price of such article if, but for the use of the direct pay permit, the transaction would have been subject to sales tax;

(3) "Value of the service used" means the purchase price for the service, the use of which is taxable under this chapter. If the service is received by gift or under conditions wherein the purchase price does not represent the true value thereof, the value of the service used shall be determined as nearly as possible according to the retail selling price at place of use of similar services of like quality and character under rules the department may prescribe;

(4) "Value of the extended warranty used" means the purchase price for the extended warranty, the use of which is taxable under this chapter. If the extended warranty is received by gift or under conditions wherein the purchase price does not represent the true value of the extended warranty, the value of the extended warranty used shall be determined as nearly as possible according to

the retail selling price at place of use of similar extended warranties of like quality and character under rules the department may prescribe;

(5) "Use," "used," "using," or "put to use" shall have their ordinary meaning, and shall mean:

(a) With respect to tangible personal property, the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within this state;

(b) With respect to a service defined in RCW 82.04.050(2)(a), the first act within this state after the service has been performed by which the taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer), and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state; and

(c) With respect to an extended warranty, the first act within this state after the extended warranty has been acquired by which the taxpayer takes or assumes dominion or control over the article of tangible personal property to which the extended warranty applies, and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(6) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW;

(7)(a)(i) Except as provided in (a)(ii) of this subsection (7), "retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter.

(ii) "Retailer" does not include a professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale of tangible personal property, extended warranty, or a sale of any service defined as a retail sale in RCW 82.04.050 (2)(a) or (3)(a) that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the retailer and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in section 1 of this act;

(8) "Extended warranty" has the same meaning as in RCW 82.04.050(7);

(9) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. With respect to property distributed to persons within this state by a

consumer as defined in this subsection (9), the use of the property shall be deemed to be by such consumer.

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

(1) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of eligibility for any tax credit, exemption, or other tax incentive, arising as the result of the employment of covered employees, provided in RCW 82.04.4333, 82.04.44525, 82.04.448, 82.04.4483, 82.08.965, 82.12.965, 82.16.0495, or 82.60.049 or chapter 82.62 or 82.70 RCW, or any other provision in this title. A client, and not the professional employer organization, shall be entitled to the benefit of any tax credit, exemption, or other tax incentive arising as the result of the employment of covered employees of that client.

(2) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of reports or surveys that require the reporting of employment information relating to covered employees of the client, as provided in RCW 82.04.4452, 82.04.4483, 82.04.4484, 82.32.535, 82.32.540, 82.32.545, 82.32.560, 82.32.570, 82.32.610, 82.32.620, 82.60.070, 82.62.050, 82.63.020, or 82.74.040, or any other provision in this title. A client, and not the professional employer organization, shall be required to complete any survey or report that requires the reporting of employment information relating to covered employees of that client.

(3) For the purposes of this section, "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in section 1 of this act.

**Sec. 5.** RCW 82.80.050 and 2000 c 103 s 21 are each amended to read as follows:

(1) A city or town electing to own, construct, maintain, operate, and preserve its streets as a separate street utility may levy periodic charges for the use or availability of the streets in a total annual amount of up to fifty percent of the actual costs for maintenance, operation, and preservation of facilities under the jurisdiction of the street utility. The rates charged for the use must be uniform for the same class of service and all business and residential properties must be subject to the utility charge. Charges imposed on businesses shall be measured solely by the number of employees and shall not exceed the equivalent of two dollars per full-time equivalent employee per month. Charges imposed against owners or occupants of residential property shall not exceed two dollars per month per housing unit as defined in RCW 35.95.040. A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of this section. In such cases, a professional employer organization is not an employer and is not liable, primarily or secondarily, for remitting the charge authorized in this section with respect to covered employees. Charges authorized in this section shall not be imposed against owners of property: ~~((+))~~ (a) Exempt under RCW 84.36.010; ~~((=))~~ (b) exempt from the leasehold tax under chapter 82.29A RCW; or ~~((#))~~ (c) used for nonprofit or sectarian purposes, which if said property were owned by such organization would qualify for exemption under chapter 84.36 RCW. The charges shall not be computed on the basis of an ad valorem charge on the

underlying real property and improvements. This section shall not be used as a basis to directly or indirectly charge transportation impact fees or mitigation fees of any kind against new development. A city or town may contract with any other utility or local government to provide for billing and collection of the street utility charges.

(2) In classifying service furnished within the general categories of business and residential, the city or town legislative authority may in its discretion consider any or all of the following factors: The difference in cost of service to the various users or traffic generators; location of the various users or traffic generators within the city or town; the difference in cost of maintenance, operation, construction, repair, and replacement of the various parts of the enterprise and facility; the different character of the service furnished to various users or traffic generators within the city or town; the size and quality of the street service furnished; the time of use or traffic generation; capital contributions made to the facility including but not limited to special assessments; and any other matters that present a reasonable difference as a ground for distinction, or the entire category of business or residential may be established as a single class. The city or town may reduce or exempt charges on residential properties to the extent of their occupancy by low-income senior citizens and other low-income citizens as provided in RCW 74.38.070((+)), or to the extent of their occupancy by the needy or infirm.

(3) The charges shall be charges against the property and the use thereof and shall become liens and be enforced in the same manner as rates and charges for the use of systems of sewerage under chapter 35.67 RCW.

(4) Any city or town ordinance or resolution creating a street utility must contain a provision granting to any business a credit against any street utility charge the full amount of any commuter or employer tax paid for transportation purposes by that business. A client under the terms of a professional employer agreement is entitled to the credit provided by this subsection (4) for any commuter or employer tax paid by the client with respect to covered employees.

(5) For the purposes of this section, "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in section 1 of this act.

**NEW SECTION. Sec. 6.** A new section is added to chapter 35.102 RCW to read as follows:

(1) A city that imposes its business and occupation tax on professional employer services performed by a professional employer organization, regardless of the tax classification applicable to such services, shall provide a deduction identical to the deduction in section 1(2) of this act.

(2) For the purposes of this section, "professional employer organization" and "professional employer services" have the same meanings as in section 1 of this act.

**Sec. 7.** RCW 35.102.040 and 2005 c 274 s 266 are each amended to read as follows:

(1)(a) The cities, working through the association of Washington cities, shall form a model ordinance development committee made up of a representative sampling of cities that as of July 27, 2003, impose a business and occupation tax. This committee shall work through the association of Washington cities to adopt



a model ordinance on municipal gross receipts business and occupation tax. The model ordinance and subsequent amendments shall be adopted using a process that includes opportunity for substantial input from business stakeholders and other members of the public. Input shall be solicited from statewide business associations and from local chambers of commerce and downtown business associations in cities that levy a business and occupation tax.

(b) The municipal research council shall contract to post the model ordinance on an internet web site and to make paper copies available for inspection upon request. The department of revenue and the department of licensing shall post copies of or links to the model ordinance on their internet web sites. Additionally, a city that imposes a business and occupation tax must make copies of its ordinance available for inspection and copying as provided in chapter 42.56 RCW.

(c) The definitions and tax classifications in the model ordinance may not be amended more frequently than once every four years, however the model ordinance may be amended at any time to comply with changes in state law. Any amendment to a mandatory provision of the model ordinance must be adopted with the same effective date by all cities.

(2) A city that imposes a business and occupation tax must adopt the mandatory provisions of the model ordinance. The following provisions are mandatory:

(a) A system of credits that meets the requirements of RCW 35.102.060 and a form for such use;

(b) A uniform, minimum small business tax threshold of at least the equivalent of twenty thousand dollars in gross income annually. A city may elect to deviate from this requirement by creating a higher threshold or exemption but it shall not deviate lower than the level required in this subsection. If a city has a small business threshold or exemption in excess of that provided in this subsection as of January 1, 2003, and chooses to deviate below the threshold or exemption level that was in place as of January 1, 2003, the city must notify all businesses licensed to do business within the city at least one hundred twenty days prior to the potential implementation of a lower threshold or exemption amount;

(c) Tax reporting frequencies that meet the requirements of RCW 35.102.070;

(d) Penalty and interest provisions that meet the requirements of RCW 35.102.080 and 35.102.090;

(e) Claim periods that meet the requirements of RCW 35.102.100;

(f) Refund provisions that meet the requirements of RCW 35.102.110; and

(g) Definitions, which at a minimum, must include the definitions enumerated in RCW 35.102.030 and 35.102.120. The definitions in chapter 82.04 RCW shall be used as the baseline for all definitions in the model ordinance, and any deviation in the model ordinance from these definitions must be described by a comment in the model ordinance.

(3) Except for the deduction required by section 6 of this act and the system of credits developed to address multiple taxation under subsection (2)(a) of this section, a city may adopt its own provisions for tax exemptions, tax credits, and tax deductions.

(4) Any city that adopts an ordinance that deviates from the nonmandatory provisions of the model ordinance shall make a description of such differences available to the public, in written and electronic form.

NEW SECTION. Sec. 8. A new section is added to chapter 82.02 RCW to read as follows:

(1) A professional employer organization is not liable for any tax imposed by or under the authority of this title or Title 35 RCW or any other tax, fee, or charge that the department administers based solely on the activities or status of a covered employee having a coemployment relationship with the professional employer organization.

(2) This subsection does not exempt a professional employer organization from:

(a) Any tax imposed by or under the authority of this or any other title based on:

(i) Professional employer services provided by the professional employer organization; or

(ii) The status or activities of employees of the professional employer organization that are not covered employees coemployed with a client; or

(b) The duty to withhold, collect, report, and remit payroll-related and unemployment taxes as required by state law and regulation.

(3) The definitions in section 1 of this act apply to this section.

NEW SECTION. Sec. 9. The provisions of this act do not affect the application of Title 50 or 51 RCW to the reporting requirement or tax liabilities of professional employer organizations or their clients.

NEW SECTION. Sec. 10. This act takes effect July 1, 2006.

Passed by the Senate February 20, 2006.

Passed by the House March 7, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 302

[Second Substitute Senate Bill 6823]

### BEER AND WINE DISTRIBUTION

AN ACT Relating to the distribution of beer and wine by wineries and breweries located inside and outside Washington state to Washington retail liquor licensees; amending RCW 66.24.170, 66.24.240, 66.24.206, 66.24.210, 66.24.270, 66.24.290, 66.28.180, and 42.56.270; reenacting and amending RCW 66.24.244, 66.28.070, 66.28.180, and 42.17.310; creating a new section; providing effective dates; providing expiration dates; and declaring an emergency.

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

**Sec. 1.** RCW 66.24.170 and 2003 c 44 s 1 are each amended to read as follows:

(1) There shall be a license for domestic wineries; fee to be computed only on the liters manufactured: Less than two hundred fifty thousand liters per year, one hundred dollars per year; and two hundred fifty thousand liters or more per year, four hundred dollars per year.

(2) The license allows for the manufacture of wine in Washington state from grapes or other agricultural products.

(3) Any domestic winery licensed under this section may also act as a ~~((distributor and/or))~~ retailer of wine of its own production. Any domestic winery licensed under this section may act as a distributor of its own production. Any winery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers.

(4) A domestic winery licensed under this section, at locations separate from any of its production or manufacturing sites, may serve samples of its own products, with or without charge, and sell wine of its own production at retail for off-premise consumption, provided that: (a) Each additional location has been approved by the board under RCW 66.24.010; (b) the total number of additional locations does not exceed two; and (c) a winery may not act as a distributor at any such additional location. Each additional location is deemed to be part of the winery license for the purpose of this title. Nothing in this subsection shall be construed to prevent a domestic winery from holding multiple domestic winery licenses.

(5)(a) A domestic winery licensed under this section may apply to the board for an endorsement to sell wine of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. An endorsement issued pursuant to this subsection does not count toward the two additional retail locations limit specified in this section.

(b) For each month during which a domestic winery will sell wine at a qualifying farmers market, the winery must provide the board or its designee a list of the dates, times, and locations at which bottled wine may be offered for sale. This list must be received by the board before the winery may offer wine for sale at a qualifying farmers market.

(c) The wine sold at qualifying farmers markets must be made entirely from grapes grown in a recognized Washington appellation or from other agricultural products grown in this state.

(d) Each approved location in a qualifying farmers market is deemed to be part of the winery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a winery. The winery may not store wine at a farmers market beyond the hours that the winery offers bottled wine for sale. The winery may not act as a distributor from a farmers market location.

(e) Before a winery may sell bottled wine at a qualifying farmers market, the farmers market must apply to the board for authorization for any winery with an endorsement approved under this subsection to sell bottled wine at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved winery may sell bottled wine; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled wine may be sold. Before authorizing a qualifying farmers market to allow an approved winery to sell bottled wine at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (5)(e) may

be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(6) Wine produced in Washington state by a domestic winery licensee may be shipped out-of-state for the purpose of making it into sparkling wine and then returned to such licensee for resale. Such wine shall be deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license.

**Sec. 2.** RCW 66.24.240 and 2003 c 154 s 1 are each amended to read as follows:

(1) There shall be a license for domestic breweries; fee to be two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010(~~(5)~~) (6), licensed under this section may also act as a (~~distributor and/or~~) retailer for beer of its own production. Any domestic brewery licensed under this section may act as a distributor for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers.

(3) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010(~~(5)~~) (6), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

(4)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the domestic brewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the domestic brewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a domestic brewery. The domestic brewery may not store beer at a farmers market beyond the hours that the domestic brewery offers bottled beer for sale. The domestic brewery may not act as a distributor from a farmers market location.

(e) Before a domestic brewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any domestic brewery with an endorsement approved under this subsection to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved domestic brewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved domestic brewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (4)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

**Sec. 3.** RCW 66.24.244 and 2003 c 167 s 1 and 2003 c 154 s 2 are each reenacted and amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery license under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Any microbrewery licensed under this section may act as a distributor for beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers.

(3) The board may issue an endorsement to this license allowing for on-premises consumption of beer, including strong beer, wine, or both of other manufacture if purchased from a Washington state-licensed distributor. Each endorsement shall cost two hundred dollars per year, or four hundred dollars per year allowing the sale and service of both beer and wine.

(4) The microbrewer obtaining such endorsement must determine, at the time the endorsement is issued, whether the licensed premises will be operated either as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW 66.24.320.

(5)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (5) do not constitute the tasting or sampling privilege of a microbrewery. The

microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection (5) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (5)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection (5):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

**Sec. 4.** RCW 66.24.206 and 2004 c 160 s 4 are each amended to read as follows:

(1)(a) A United States winery (~~(or manufacturer of wine)~~) located outside the state of Washington must hold a certificate of approval to allow sales and shipment of the certificate of approval holder's wine to licensed Washington

wine distributors ~~((or)),~~ importers, or retailers. A certificate of approval holder with a direct shipment endorsement may act as a distributor of its own production.

(b) Authorized representatives must hold a certificate of approval to allow sales and shipment of United States produced wine to licensed Washington wine distributors or importers.

(c) Authorized representatives must also hold a certificate of approval to allow sales and shipments of foreign produced wine to licensed Washington wine distributors or importers.

(2) The certificate of approval shall not be granted unless and until such winery or manufacturer of wine or authorized representative shall have made a written agreement with the board to furnish to the board, on or before the twentieth day of each month, a report under oath, on a form to be prescribed by the board, showing the quantity of wine sold or delivered to each licensed wine distributor ~~((or)),~~ importer, or retailer, during the preceding month, and shall further have agreed with the board, that such wineries, manufacturers, or authorized representatives, and all general sales corporations or agencies maintained by them, and all of their trade representatives, shall and will faithfully comply with all laws of the state of Washington pertaining to the sale of intoxicating liquors and all rules and regulations of the Washington state liquor control board. A violation of the terms of this agreement will cause the board to take action to suspend or revoke such certificate.

(3) The fee for the certificate of approval and related endorsements, issued pursuant to the provisions of this title, shall be from time to time established by the board at a level that is sufficient to defray the costs of administering the certificate of approval program. The fee shall be fixed by rule by the board in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(4) Certificate of approval holders are deemed to have consented to the jurisdiction of Washington concerning enforcement of this chapter and all laws and rules related to the sale and shipment of wine.

**Sec. 5.** RCW 66.24.210 and 2001 c 124 s 1 are each amended to read as follows:

(1) There is hereby imposed upon all wines except cider sold to wine distributors and the Washington state liquor control board, within the state a tax at the rate of twenty and one-fourth cents per liter. Any domestic winery or certificate of approval holder acting as a distributor of its own production shall pay taxes imposed by this section. There is hereby imposed on all cider sold to wine distributors and the Washington state liquor control board within the state a tax at the rate of three and fifty-nine one-hundredths cents per liter: PROVIDED, HOWEVER, That wine sold or shipped in bulk from one winery to another winery shall not be subject to such tax.

(a) The tax provided for in this section shall be collected by direct payments based on wine purchased by wine distributors.

(b) Every person purchasing wine under the provisions of this section shall on or before the twentieth day of each month report to the board all purchases during the preceding calendar month in such manner and upon such forms as may be prescribed by the board, and with such report shall pay the tax due from the purchases covered by such report unless the same has previously been paid.



Any such purchaser of wine whose applicable tax payment is not postmarked by the twentieth day following the month of purchase will be assessed a penalty at the rate of two percent a month or fraction thereof. The board may require that every such person shall execute to and file with the board a bond to be approved by the board, in such amount as the board may fix, securing the payment of the tax. If any such person fails to pay the tax when due, the board may forthwith suspend or cancel the license until all taxes are paid.

(c) Any licensed retailer authorized to purchase wine from a certificate of approval holder with a direct shipment endorsement or a domestic winery shall make monthly reports to the liquor control board on wine purchased during the preceding calendar month in the manner and upon such forms as may be prescribed by the board.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month.

(3) An additional tax is imposed on wines subject to tax under subsection (1) of this section, at the rate of one-fourth of one cent per liter for wine sold after June 30, 1987. After June 30, 1996, such additional tax does not apply to cider. An additional tax of five one-hundredths of one cent per liter is imposed on cider sold after June 30, 1996. All revenues collected under this subsection (3) shall be disbursed quarterly to the Washington wine commission for use in carrying out the purposes of chapter 15.88 RCW.

(4) An additional tax is imposed on all wine subject to tax under subsection (1) of this section. The additional tax is equal to twenty-three and forty-four one-hundredths cents per liter on fortified wine as defined in RCW 66.04.010(~~((38))~~) (39) when bottled or packaged by the manufacturer, one cent per liter on all other wine except cider, and eighteen one-hundredths of one cent per liter on cider. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520 by the twenty-fifth day of the following month.

(5)(a) An additional tax is imposed on all cider subject to tax under subsection (1) of this section. The additional tax is equal to two and four one-hundredths cents per liter of cider sold after June 30, 1996, and before July 1, 1997, and is equal to four and seven one-hundredths cents per liter of cider sold after June 30, 1997.

(b) All revenues collected from the additional tax imposed under this subsection (5) shall be deposited in the health services account under RCW 43.72.900.

(6) For the purposes of this section, "cider" means table wine that contains not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume and is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears. "Cider" includes, but is not limited to, flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must.

**Sec. 6.** RCW 66.24.270 and 2004 c 160 s 8 are each amended to read as follows:

(1) Every person, firm or corporation, holding a license to manufacture malt liquors or strong beer within the state of Washington, shall, on or before the

twentieth day of each month, furnish to the Washington state liquor control board, on a form to be prescribed by the board, a statement showing the quantity of malt liquors and strong beer sold for resale during the preceding calendar month to each beer distributor within the state of Washington.

(2)(a) A United States brewery or manufacturer of beer or strong beer, located outside the state of Washington, must hold a certificate of approval to allow sales and shipment of the certificate of approval holder's beer or strong beer to licensed Washington beer distributors ~~((or)), importers, or retailers.~~ A certificate of approval holder with a direct shipment endorsement may act as a distributor for beer of its own production.

(b) Authorized representatives must hold a certificate of approval to allow sales and shipment of United States produced beer or strong beer to licensed Washington beer distributors or importers.

(c) Authorized representatives must also hold a certificate of approval to allow sales and shipments of foreign produced beer or strong beer to licensed Washington beer distributors or importers.

(3) The certificate of approval shall not be granted unless and until such brewer or manufacturer of beer or strong beer or authorized representative shall have made a written agreement with the board to furnish to the board, on or before the twentieth day of each month, a report under oath, on a form to be prescribed by the board, showing the quantity of beer and strong beer sold or delivered to each licensed beer distributor ~~((or)), importer, or retailer~~ during the preceding month, and shall further have agreed with the board, that such brewer or manufacturer of beer or strong beer or authorized representative and all general sales corporations or agencies maintained by them, and all of their trade representatives, corporations, and agencies, shall and will faithfully comply with all laws of the state of Washington pertaining to the sale of intoxicating liquors and all rules and regulations of the Washington state liquor control board. A violation of the terms of this agreement will cause the board to take action to suspend or revoke such certificate.

(4) The fee for the certificate of approval and related endorsements, issued pursuant to the provisions of this title, shall be from time to time established by the board at a level that is sufficient to defray the costs of administering the certificate of approval program. The fee shall be fixed by rule by the board in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(5) Certificate of approval holders are deemed to have consented to the jurisdiction of Washington concerning enforcement of this chapter and all laws and rules related to the sale and shipment of beer.

**Sec. 7.** RCW 66.24.290 and 2003 c 167 s 5 are each amended to read as follows:

(1) Any microbrewer or domestic brewery or beer distributor licensed under this title may sell and deliver beer and strong beer to holders of authorized licenses direct, but to no other person, other than the board~~((; and))~~. Any certificate of approval holder authorized to act as a distributor under RCW 66.24.270 shall pay the taxes imposed by this section.

(a) Every such brewery or beer distributor shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer and strong beer within the

state a tax of one dollar and thirty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer, including strong beer, shall pay a tax computed in gallons at the rate of one dollar and thirty cents per barrel of thirty-one gallons.

(b) Any brewery or beer distributor whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of two percent per month or fraction thereof. Beer and strong beer shall be sold by breweries and distributors in sealed barrels or packages.

(c) The moneys collected under this subsection shall be distributed as follows: ~~((+))~~ (i) Three-tenths of a percent shall be distributed to border areas under RCW 66.08.195; and ~~((+))~~ (ii) of the remaining moneys: ~~((+))~~ (A) Twenty percent shall be distributed to counties in the same manner as under RCW 66.08.200; and ~~((+))~~ (B) eighty percent shall be distributed to incorporated cities and towns in the same manner as under RCW 66.08.210.

(d) Any licensed retailer authorized to purchase beer from a certificate of approval holder with a direct shipment endorsement or a brewery or microbrewery shall make monthly reports to the liquor control board on beer purchased during the preceding calendar month in the manner and upon such forms as may be prescribed by the board.

(2) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to two dollars per barrel of thirty-one gallons. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement account under RCW 69.50.520 by the twenty-fifth day of the following month.

(3)(a) An additional tax is imposed on all beer and strong beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four dollars and seventy-eight cents per barrel of thirty-one gallons thereafter.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection (3) shall be deposited in the health services account under RCW 43.72.900.

(4) An additional tax is imposed on all beer and strong beer that is subject to tax under subsection (1) of this section that is in the first sixty thousand barrels of beer and strong beer by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of the exemption under subsection (3)(b) of this section. The additional tax is equal to one dollar and forty-eight and two-tenths cents per barrel of thirty-one gallons. By the twenty-fifth day of the following month, three percent of the revenues collected from this additional tax shall be distributed to border areas under RCW

66.08.195 and the remaining moneys shall be transferred to the state general fund.

(5) The board may make refunds for all taxes paid on beer and strong beer exported from the state for use outside the state.

(6) The board may require filing with the board of a bond to be approved by it, in such amount as the board may fix, securing the payment of the tax. If any licensee fails to pay the tax when due, the board may forthwith suspend or cancel his or her license until all taxes are paid.

**Sec. 8.** RCW 66.28.070 and 1994 c 201 s 5 and 1994 c 63 s 2 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, it shall be unlawful for any retail beer or wine licensee to purchase beer or wine, except from a duly licensed ~~((wholesaler))~~ distributor, domestic winery, domestic brewer, certificate of approval holder with a direct shipment endorsement, or the board ~~((, and it shall be unlawful for any brewer, winery, or beer or wine wholesaler to purchase beer or wine, except from a duly licensed beer or wine wholesaler or importer)).~~

(2) A beer or wine retailer licensee may purchase beer or wine from a government agency which has lawfully seized beer or wine from a licensed beer or wine retailer, or from a board-authorized retailer, or from a licensed retailer which has discontinued business if the ~~((wholesaler))~~ distributor has refused to accept beer or wine from that retailer for return and refund. Beer and wine purchased under this subsection shall meet the quality standards set by its manufacturer.

(3) Special occasion licensees holding either a ~~((class G or J))~~ special occasion license may only purchase beer or wine from a beer or wine retailer duly licensed to sell beer or wine for off-premises consumption, the board, or from a duly licensed beer or wine ~~((wholesaler))~~ distributor.

**Sec. 9.** RCW 66.28.180 and 2004 c 269 s 1 and 2004 c 160 s 18 are each reenacted and amended to read as follows:

It is unlawful for a person, firm, or corporation holding a certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer distributor's license, a domestic brewery license, a microbrewery license, a beer importer's license, a beer distributor's license, a domestic winery license, a wine importer's license, or a wine distributor's license within the state of Washington to modify any prices without prior notification to and approval of the board.

(1) Intent. This section is enacted, pursuant to the authority of this state under the twenty-first amendment to the United States Constitution, to promote the public's interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption; to promote the fair and efficient three-tier system of distribution of such beverages; and to confirm existing board rules as the clear expression of state policy to regulate the manner of selling and pricing of wine and malt beverages by licensed suppliers and distributors.

(2) Beer and wine distributor price posting.

(a) Every beer or wine distributor shall file with the board at its office in Olympia a price posting showing the wholesale prices at which any and all brands of beer and wine sold by such beer and/or wine distributor shall be sold to retailers within the state.

(b) Each price posting shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth:

(i) All brands, types, packages, and containers of beer offered for sale by such beer and/or wine distributor;

(ii) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(c) No beer and/or wine distributor may sell or offer to sell any package or container of beer or wine to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer and/or wine distributor and then in effect, according to rules adopted by the board.

(d) Quantity discounts are prohibited. No price may be posted that is below acquisition cost plus ten percent of acquisition cost. However, the board is empowered to review periodically, as it may deem appropriate, the amount of the percentage of acquisition cost as a minimum mark-up over cost and to modify such percentage by rule of the board, except such percentage shall be not less than ten percent.

(e) Distributor prices on a "close-out" item shall be accepted by the board if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the distributor who posts such a close-out price shall not restock the item for a period of one year following the first effective date of such close-out price.

(f) The board may reject any price posting that it deems to be in violation of this section or any rule, or portion thereof, or that would tend to disrupt the orderly sale and distribution of beer and wine. Whenever the board rejects any posting, the licensee submitting the posting may be heard by the board and shall have the burden of showing that the posting is not in violation of this section or a rule or does not tend to disrupt the orderly sale and distribution of beer and wine. If the posting is accepted, it shall become effective at the time fixed by the board. If the posting is rejected, the last effective posting shall remain in effect until such time as an amended posting is filed and approved, in accordance with the provisions of this section.

(g) Prior to the effective date of the posted prices, all price postings filed as required by this section constitute investigative information and shall not be subject to disclosure, pursuant to RCW 42.17.310(1)(d).

(h) Any beer and/or wine distributor or employee authorized by the distributor-employer may sell beer and/or wine at the distributor's posted prices to any annual or special occasion retail licensee upon presentation to the distributor or employee at the time of purchase of a special permit issued by the board to such licensee.

(i) Every annual or special occasion retail licensee, upon purchasing any beer and/or wine from a distributor, shall immediately cause such beer or wine to be delivered to the licensed premises, and the licensee shall not thereafter permit such beer to be disposed of in any manner except as authorized by the license.

(ii) Beer and wine sold as provided in this section shall be delivered by the distributor or an authorized employee either to the retailer's licensed premises or directly to the retailer at the distributor's licensed premises. When a domestic winery, brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement is acting as a distributor of its own production, a licensed retailer may contract with a common carrier to obtain the product directly from

the domestic winery, brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement. A distributor's prices to retail licensees shall be the same at both such places of delivery.

(3) Beer and wine suppliers' price filings, contracts, and memoranda.

(a) Every domestic brewery, microbrewery, and domestic winery offering beer and/or wine for sale within the state shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewery or winery may have with any beer or wine distributor, which contracts or memoranda shall contain a schedule of prices charged to distributors for all items and all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances, and incentive programs; and all commissions, bonuses or gifts, and any and all other discounts or allowances. Whenever changed or modified, such revised contracts or memoranda shall forthwith be filed with the board as provided for by rule. The provisions of this section also apply to certificate of approval holders, beer and/or wine importers, and beer and/or wine distributors who sell to other beer and/or wine distributors.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages, and containers of beer or wine offered for sale by such licensed brewery or winery; all additional information required may be filed as a supplement to the price schedule forms.

(b) Prices filed by a domestic brewery, microbrewery, domestic winery, or certificate of approval holder shall be uniform prices to all distributors or retailers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed that is below acquisition/production cost plus ten percent of that cost, except that acquisition cost plus ten percent of acquisition cost does not apply to sales of beer or wine between a beer or wine importer who sells beer or wine to another beer or wine importer or to a beer or wine distributor, or to a beer or wine distributor who sells beer or wine to another beer or wine distributor. However, the board is empowered to review periodically, as it may deem appropriate, the amount of the percentage of acquisition/production cost as a minimum mark-up over cost and to modify such percentage by rule of the board, except such percentage shall be not less than ten percent.

(c) No domestic brewery, microbrewery, domestic winery, certificate of approval holder, beer or wine importer, or beer or wine distributor may sell or offer to sell any beer or wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(d) No domestic brewery, microbrewery, domestic winery, or certificate of approval holder may sell or offer to sell any package or container of beer or wine to any distributor at a price differing from the price for such package or container as shown in the schedule of prices filed by the domestic brewery, microbrewery, domestic winery, or certificate of approval holder and then in effect, according to rules adopted by the board.

(e) The board may reject any supplier's price filing, contract, or memorandum of oral agreement, or portion thereof that it deems to be in violation of this section or any rule or that would tend to disrupt the orderly sale

and distribution of beer or wine. Whenever the board rejects any such price filing, contract, or memorandum, the licensee submitting the price filing, contract, or memorandum may be heard by the board and shall have the burden of showing that the price filing, contract, or memorandum is not in violation of this section or a rule or does not tend to disrupt the orderly sale and distribution of beer or wine. If the price filing, contract, or memorandum is accepted, it shall become effective at a time fixed by the board. If the price filing, contract, or memorandum, or portion thereof, is rejected, the last effective price filing, contract, or memorandum shall remain in effect until such time as an amended price filing, contract, or memorandum is filed and approved, in accordance with the provisions of this section.

(f) Prior to the effective date of the posted prices, all prices, contracts, and memoranda filed as required by this section constitute investigative information and shall not be subject to disclosure, pursuant to RCW 42.17.310(1)(d).

**Sec. 10.** RCW 66.28.180 and 2005 c 274 s 327 are each amended to read as follows:

It is unlawful for a person, firm, or corporation holding a certificate of approval issued under RCW 66.24.270 or 66.24.206, a beer distributor's license, a domestic brewery license, a microbrewery license, a beer importer's license, a beer distributor's license, a domestic winery license, a wine importer's license, or a wine distributor's license within the state of Washington to modify any prices without prior notification to and approval of the board.

(1) Intent. This section is enacted, pursuant to the authority of this state under the twenty-first amendment to the United States Constitution, to promote the public's interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption; to promote the fair and efficient three-tier system of distribution of such beverages; and to confirm existing board rules as the clear expression of state policy to regulate the manner of selling and pricing of wine and malt beverages by licensed suppliers and distributors.

(2) Beer and wine distributor price posting.

(a) Every beer or wine distributor shall file with the board at its office in Olympia a price posting showing the wholesale prices at which any and all brands of beer and wine sold by such beer and/or wine distributor shall be sold to retailers within the state.

(b) Each price posting shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth:

(i) All brands, types, packages, and containers of beer offered for sale by such beer and/or wine distributor;

(ii) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(c) No beer and/or wine distributor may sell or offer to sell any package or container of beer or wine to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer and/or wine distributor and then in effect, according to rules adopted by the board.

(d) Quantity discounts are prohibited. No price may be posted that is below acquisition cost plus ten percent of acquisition cost. However, the board is empowered to review periodically, as it may deem appropriate, the amount of the percentage of acquisition cost as a minimum mark-up over cost and to modify

such percentage by rule of the board, except such percentage shall be not less than ten percent.

(e) Distributor prices on a "close-out" item shall be accepted by the board if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the distributor who posts such a close-out price shall not restock the item for a period of one year following the first effective date of such close-out price.

(f) The board may reject any price posting that it deems to be in violation of this section or any rule, or portion thereof, or that would tend to disrupt the orderly sale and distribution of beer and wine. Whenever the board rejects any posting, the licensee submitting the posting may be heard by the board and shall have the burden of showing that the posting is not in violation of this section or a rule or does not tend to disrupt the orderly sale and distribution of beer and wine. If the posting is accepted, it shall become effective at the time fixed by the board. If the posting is rejected, the last effective posting shall remain in effect until such time as an amended posting is filed and approved, in accordance with the provisions of this section.

(g) Prior to the effective date of the posted prices, all price postings filed as required by this section constitute investigative information and shall not be subject to disclosure, pursuant to RCW 42.56.240(1).

(h) Any beer and/or wine distributor or employee authorized by the distributor-employer may sell beer and/or wine at the distributor's posted prices to any annual or special occasion retail licensee upon presentation to the distributor or employee at the time of purchase of a special permit issued by the board to such licensee.

(i) Every annual or special occasion retail licensee, upon purchasing any beer and/or wine from a distributor, shall immediately cause such beer or wine to be delivered to the licensed premises, and the licensee shall not thereafter permit such beer to be disposed of in any manner except as authorized by the license.

(ii) Beer and wine sold as provided in this section shall be delivered by the distributor or an authorized employee either to the retailer's licensed premises or directly to the retailer at the distributor's licensed premises. When a domestic winery, brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement is acting as a distributor of its own production, a licensed retailer may contract with a common carrier to obtain the product directly from the domestic winery, brewery, microbrewery, or certificate of approval holder with a direct shipping endorsement. A distributor's prices to retail licensees shall be the same at both such places of delivery.

(3) Beer and wine suppliers' price filings, contracts, and memoranda.

(a) Every domestic brewery, microbrewery, and domestic winery offering beer and/or wine for sale within the state shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewery or winery may have with any beer or wine distributor, which contracts or memoranda shall contain a schedule of prices charged to distributors for all items and all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances, and incentive programs; and all commissions, bonuses or gifts, and any and all other discounts or allowances. Whenever changed or modified, such revised contracts or memoranda shall forthwith be filed with the board as provided for by rule. The



provisions of this section also apply to certificate of approval holders, beer and/or wine importers, and beer and/or wine distributors who sell to other beer and/or wine distributors.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages, and containers of beer or wine offered for sale by such licensed brewery or winery; all additional information required may be filed as a supplement to the price schedule forms.

(b) Prices filed by a domestic brewery, microbrewery, domestic winery, or certificate of approval holder shall be uniform prices to all distributors or retailers on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed that is below acquisition/production cost plus ten percent of that cost, except that acquisition cost plus ten percent of acquisition cost does not apply to sales of beer or wine between a beer or wine importer who sells beer or wine to another beer or wine importer or to a beer or wine distributor, or to a beer or wine distributor who sells beer or wine to another beer or wine distributor. However, the board is empowered to review periodically, as it may deem appropriate, the amount of the percentage of acquisition/production cost as a minimum mark-up over cost and to modify such percentage by rule of the board, except such percentage shall be not less than ten percent.

(c) No domestic brewery, microbrewery, domestic winery, certificate of approval holder, beer or wine importer, or beer or wine distributor may sell or offer to sell any beer or wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(d) No domestic brewery, microbrewery, domestic winery, or certificate of approval holder may sell or offer to sell any package or container of beer or wine to any distributor at a price differing from the price for such package or container as shown in the schedule of prices filed by the domestic brewery, microbrewery, domestic winery, or certificate of approval holder and then in effect, according to rules adopted by the board.

(e) The board may reject any supplier's price filing, contract, or memorandum of oral agreement, or portion thereof that it deems to be in violation of this section or any rule or that would tend to disrupt the orderly sale and distribution of beer or wine. Whenever the board rejects any such price filing, contract, or memorandum, the licensee submitting the price filing, contract, or memorandum may be heard by the board and shall have the burden of showing that the price filing, contract, or memorandum is not in violation of this section or a rule or does not tend to disrupt the orderly sale and distribution of beer or wine. If the price filing, contract, or memorandum is accepted, it shall become effective at a time fixed by the board. If the price filing, contract, or memorandum, or portion thereof, is rejected, the last effective price filing, contract, or memorandum shall remain in effect until such time as an amended price filing, contract, or memorandum is filed and approved, in accordance with the provisions of this section.

(f) Prior to the effective date of the posted prices, all prices, contracts, and memoranda filed as required by this section constitute investigative information and shall not be subject to disclosure, pursuant to RCW 42.56.240(1).

**Sec. 11.** RCW 42.17.310 and 2005 c 424 s 16, 2005 c 349 s 1, 2005 c 312 s 6, 2005 c 284 s 1, 2005 c 172 s 13, and 2005 c 33 s 4 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

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

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

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

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

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

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of dependents of employees or volunteers of a public agency, which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency. For purposes of this subsection, "employees" includes independent provider home care workers as defined in RCW 74.39A.240.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support

enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

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

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

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

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

(hh) Information and documents created specifically for, and collected and maintained by, a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640 or 18.20.390, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

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

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the

purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

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

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(i) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(ii) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa)(i) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have not been commingled with other recorded documents. These records will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding that veteran's general power of attorney, or to anyone else designated in writing by that veteran to receive the records.

(ii) Discharge papers of a veteran of the armed forces of the United States filed at the office of the county auditor before July 1, 2002, that have been commingled with other records, if the veteran has recorded a "request for exemption from public disclosure of discharge papers" with the county auditor. If such a request has been recorded, these records may be released only to the veteran filing the papers, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iii) Discharge papers of a veteran filed at the office of the county auditor after June 30, 2002, are not public records, but will be available only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records.

(iv) For the purposes of this subsection (1)(aaa), next of kin of deceased veterans have the same rights to full access to the record. Next of kin are the veteran's widow or widower who has not remarried, son, daughter, father, mother, brother, and sister.

(bbb) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility or any individual's safety.

(ccc) Information compiled by school districts or schools in the development of their comprehensive safe school plans pursuant to RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school.

(ddd) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.

(eee) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW.

(fff) Proprietary data, trade secrets, or other information that relates to: (i) A vendor's unique methods of conducting business; (ii) data unique to the product or services of the vendor; or (iii) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011.

(ggg) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.

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

(iii) Records of mediation communications that are privileged under chapter 7.07 RCW.

(jjj) Financial or proprietary information supplied to the liquor control board including the amount of beer or wine sold by a domestic winery, brewery, microbrewery, or certificate of approval holder under RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or wine purchased by a retail licensee in connection with a retail licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of shipments of beer or wine.



(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

**Sec. 12.** RCW 42.56.270 and 2005 c 274 s 407 are each 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 43.163, 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 liquor license, gambling license, or lottery retail license;

(b) Financial or proprietary information supplied to the liquor control board including the amount of beer or wine sold by a domestic winery, brewery, microbrewery, or certificate of approval holder under RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or wine purchased by a retail licensee in connection with a retail licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of shipments of beer or wine.

(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; and

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development 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 community, trade, and economic development 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 community, trade, and economic development 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.

**NEW SECTION. Sec. 13.** The liquor control board shall convene a task force to conduct a comprehensive review of the current regulatory system controlling the sale and distribution of beer and wine in Washington state. The board shall include stakeholders representing the producers, distributors, consumers, retailers, carriers, and legislators in conducting its review. The task force shall review the genesis of the current regulatory system and whether the system in its current configuration should continue. It shall identify key issues,

concerns, and desired changes by stakeholders about the current system and shall identify alternatives or modifications to the current system. The task force shall also research and analyze the impacts and implications of this act, and other suggested modifications to the system on distributors, producers, retailers, and consumers. The task force shall make recommendations about any proposed changes to the system by December 15, 2006.

NEW SECTION. Sec. 14. Except for sections 9 and 11 of this act which expire July 1, 2006, this act expires June 30, 2008.

NEW SECTION. Sec. 15. Sections 10 and 12 of this act take effect July 1, 2006.

NEW SECTION. Sec. 16. Except for sections 10 and 12 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 April 14, 2006.

Passed by the Senate February 9, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

### CHAPTER 303

[Engrossed Second Substitute Senate Bill 6630]

#### COMMUNITY PROTECTION PROGRAM—PERSONS WITH DEVELOPMENTAL DISABILITIES

AN ACT Relating to establishing the community protection program for persons with developmental disabilities; amending RCW 71.09.060; reenacting and amending RCW 71.09.020; adding new sections to chapter 71A.12 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. The department of social and health services is providing a structured, therapeutic environment for persons who are eligible for placement in the community protection program in order for them to live safely and successfully in the community while minimizing the risk to public safety.

The legislature approves of steps already taken by the department to create a community protection program within the division of developmental disabilities.

NEW SECTION. Sec. 2. Sections 3 through 9 of this act apply to a person:  
(1)(a) Who has been charged with or convicted of a crime and meets the following criteria:

(i) Has been convicted of one of the following:

(A) A crime of sexual violence as defined in chapter 9A.44 or 71.09 RCW including, but not limited to, rape, rape of a child, and child molestation;

(B) Sexual acts directed toward strangers, individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or persons of casual acquaintance with whom no substantial personal relationship exists; or

(C) One or more violent offenses, as defined by RCW 9.94A.030; and

(ii) Constitutes a current risk to others as determined by a qualified professional. Charges or crimes that resulted in acquittal must be excluded; or

(b) Who has not been charged with and/or convicted of a crime, but meets the following criteria:

(i) Has a history of stalking, violent, sexually violent, predatory, and/or opportunistic behavior which demonstrates a likelihood to commit a violent, sexually violent, and/or predatory act; and

(ii) Constitutes a current risk to others as determined by a qualified professional; and

(2) Who has been determined to have a developmental disability as defined by RCW 71A.10.020(3).

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

(1) "Assessment" means the written opinion of a qualified professional stating, at a minimum:

(a) Whether a person meets the criteria established in section 2 of this act;

(b) What restrictions are necessary.

(2) "Certified community protection program intensive supported living services" means access to twenty-four-hour supervision, instruction, and support services as identified in the person's plan of care.

(3) "Community protection program" means services specifically designed to support persons who meet the criteria of section 2 of this act.

(4) "Constitutes a risk to others" means a determination of a person's risk and/or dangerousness based upon a thorough assessment by a qualified professional.

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

(6) "Developmental disability" means that condition defined in RCW 71A.10.020(3).

(7) "Disclosure" means providing copies of professional assessments, incident reports, legal documents, and other information pertaining to community protection issues to ensure the provider has all relevant information. Polygraph and plethysmograph reports are excluded from disclosure.

(8) "Division" means the division of developmental disabilities.

(9) "Managed successfully" means that a person supported by a community protection program does not engage in the behavior identified in section 2 of this act.

(10) "Opportunistic behavior" means an act committed on impulse, which is not premeditated.

(11) "Predatory" means acts directed toward strangers, individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or casual acquaintances with whom no substantial personal relationship exists. Predatory behavior may be characterized by planning and/or rehearsing the act, stalking, and/or grooming the victim.

(12) "Qualified professional" means a person with at least three years' prior experience working with individuals with developmental disabilities, and: (a) If the person being assessed has demonstrated sexually aggressive or sexually violent behavior, that person must be assessed by a qualified professional who is a certified sex offender treatment provider, or affiliate sex offender treatment provider working under the supervision of a certified sex offender treatment provider; or (b) If the person being assessed has demonstrated violent, dangerous, or aggressive behavior, that person must be assessed by a licensed

psychologist or psychiatrist who has received specialized training in the treatment of or has at least three years' prior experience treating violent or aggressive behavior.

(13) "Treatment team" means the program participant and the group of people responsible for the development, implementation, and monitoring of the person's individualized supports and services. This group may include, but is not limited to, the case resource manager, therapist, residential provider, employment/day program provider, and the person's legal representative and/or family, provided the person consents to the family member's involvement.

(14) "Violent offense" means any felony defined as a violent offense in RCW 9.94A.030.

(15) "Waiver" means the community-based funding under section 1915 of Title XIX of the federal social security act.

**NEW SECTION. Sec. 4.** (1) Prior to receiving services through the community protection program, a person must first receive an assessment of risk and/or dangerousness by a qualified professional. The assessment must be consistent with the guidelines for risk assessments and psychosexual evaluations developed by the department. The person requesting services and the person's legal representative have the right to choose the qualified professional who will perform the assessment from a list of state contracted qualified professionals. The assessment must contain, at a minimum, a determination by the qualified professional whether the person can be managed successfully in the community with reasonably available safeguards and that lesser restrictive residential placement alternatives have been considered and would not be reasonable for the person seeking services. The department may request an additional evaluation by a qualified professional evaluator who is contracted with the state.

(2) Any person being considered for placement in the community protection program and his or her legal representative must be informed in writing of the following: (a) Limitations regarding the services that will be available due to the person's community protection issues; (b) disclosure requirements as a condition of receiving services other than case management; (c) the requirement to engage in therapeutic treatment may be a condition of receiving certain services; (d) anticipated restrictions that may be provided including, but not limited to intensive supervision, limited access to television viewing, reading material, videos; (e) the right to accept or decline services; (f) the anticipated consequences of declining services such as the loss of existing services and removal from waiver services; (g) the right to an administrative fair hearing in accordance with department and division policy; (h) the requirement to sign a preplacement agreement as a condition of receiving community protection intensive supported living services; (i) the right to retain current services during the pendency of any challenge to the department's decision; (j) the right to refuse to participate in the program.

(3)(a) If the department determines that a person is appropriate for placement in the community protection program, the individual and his or her legal representative shall receive in writing a determination by the department that the person meets the criteria for placement within the community protection program.

(b) If the department determines that a person cannot be managed successfully in the community protection program with reasonably available

safeguards, the department must notify the person and his or her legal representative in writing.

**NEW SECTION. Sec. 5.** (1) Individuals receiving services through the department's community protection waiver retain all appeal rights provided for in RCW 71A.10.050. In addition, such individuals have a right to an administrative hearing pursuant to chapter 34.05 RCW to appeal the following decisions by the department:

- (a) Termination of community protection waiver eligibility;
- (b) Assignment of the applicant to the community protection waiver;
- (c) Denial of a request for less restrictive community residential placement.

(2) Final administrative decisions may be appealed pursuant to the provisions of RCW 34.05.510.

(3) The secretary shall adopt rules concerning the procedure applicable to requests for hearings under this section and governing the conduct thereof.

(4) When the department takes any action described in subsection (1) of this section it shall give notice as provided by RCW 71A.10.060. The notice must include a statement advising the person enrolled on the community protection waiver of the right to an adjudicative proceeding and the time limits for filing an application for an adjudicative proceeding. Notice must also include a statement advising the recipient of the right to file a petition for judicial review of a final administrative decision as provided in chapter 34.05 RCW.

(5) Nothing in this section creates an entitlement to placement on the community protection waiver nor does it create a right to an administrative hearing on department decisions denying placement on the community protection waiver.

**NEW SECTION. Sec. 6.** (1) Community protection program participants shall have appropriate opportunities to receive services in the least restrictive manner and in the least restrictive environments possible.

(2) There must be a review by the treatment team every ninety days to assess each participant's progress, evaluate use of less restrictive measures, and make changes in the participant's program as necessary. The team must review all restrictions and recommend reductions if appropriate. The therapist must write a report annually evaluating the participant's risk of offense and/or risk of behaviors that are dangerous to self or others. The department shall have rules in place describing this process. If a treatment team member has reason to be concerned that circumstances have changed significantly, the team member may request that a complete reassessment be conducted at any time.

**NEW SECTION. Sec. 7.** A participant who demonstrates success in complying with reduced restrictions and remains free of offenses that may indicate a relapse for at least twelve months, may be considered for placement in a less restrictive community residential setting.

The process to move a participant to a less restrictive residential placement shall include, at a minimum:

(1) Written verification of the person's treatment progress, compliance with reduced restrictions, an assessment of low risk of reoffense, and a recommendation as to suitable placement by the treatment team;

(2) Development of a gradual phase out plan by the treatment team, projected over a reasonable period of time and includes specific criteria for evaluating reductions in restrictions, especially supervision;

(3) The absence of any incidents that may indicate relapse for a minimum of twelve months;

(4) A written plan that details what supports and services, including the level of supervision the person will receive from the division upon exiting the community protection program;

(5) An assessment consistent with the guidelines for risk assessments and psychosexual evaluations developed by the division, conducted by a qualified professional. At a minimum, the assessment shall include:

(a) An evaluation of the participant's risk of reoffense and/or dangerousness; and

(b) An opinion as to whether or not the person can be managed successfully in a less restrictive community residential setting;

(6) Recommendation by the treatment team that the participant is ready to move to a less restrictive community residential placement.

**NEW SECTION. Sec. 8.** (1) The department is authorized to take one or more of the enforcement actions listed in subsection (2) of this section when the department finds that a provider of residential services and support with whom the department entered into an agreement under this chapter has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under it;

(b) Failed or refused to cooperate with the certification process;

(c) Prevented or interfered with a certification, inspection, or investigation by the department;

(d) Failed to comply with any applicable requirements regarding vulnerable adults under chapter 74.34 RCW; or

(e) Knowingly, or with reason to know, made a false statement of material fact related to certification or contracting with the department, or in any matter under investigation by the department.

(2) The department may:

(a) Decertify or refuse to renew the certification of a provider;

(b) Impose conditions on a provider's certification status;

(c) Suspend department referrals to the provider; or

(d) Require a provider to implement a plan of correction developed by the department and to cooperate with subsequent monitoring of the provider's progress. In the event a provider fails to implement the plan of correction or fails to cooperate with subsequent monitoring, the department may impose civil penalties of not more than one hundred fifty dollars per day per violation. Each day during which the same or similar action or inaction occurs constitutes a separate violation.

(3) When determining the appropriate enforcement action or actions under subsection (2) of this section, the department must select actions commensurate with the seriousness of the harm or threat of harm to the persons being served by the provider. Further, the department may take enforcement actions that are more severe for violations that are uncorrected, repeated, pervasive, or which present a serious threat of harm to the health, safety, or welfare of persons served by the provider. The department shall by rule develop criteria for the selection

and implementation of enforcement actions authorized in subsection (2) of this section. Rules adopted under this section shall include a process for an informal review upon request by a provider.

(4) The provisions of chapter 34.05 RCW apply to enforcement actions under this section. Except for the imposition of civil penalties, the effective date of enforcement actions shall not be delayed or suspended pending any hearing or informal review.

(5) The enforcement actions and penalties authorized in this section are not exclusive or exhaustive and nothing in this section prohibits the department from taking any other action authorized in statute or rule or under the terms of a contract with the provider.

**NEW SECTION. Sec. 9.** The department shall develop and maintain rules, guidelines, or policy manuals, as appropriate, for implementing and maintaining the community protection program under this chapter.

**Sec. 10.** RCW 71.09.020 and 2003 c 216 s 2 and 2003 c 50 s 1 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

(2) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, federally approved renal dialysis center or facility, or federally approved blood bank.

(3) "Health care practitioner" means an individual or firm licensed or certified to engage actively in a regulated health profession.

(4) "Health care services" means those services provided by health professionals licensed pursuant to RCW 18.120.020(4).

(5) "Health profession" means those licensed or regulated professions set forth in RCW 18.120.020(4).

(6) "Less restrictive alternative" means court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions set forth in RCW 71.09.092. A less restrictive alternative may not include placement in the community protection program as pursuant to section 4 of this act.

(7) "Likely to engage in predatory acts of sexual violence if not confined in a secure facility" means that the person more probably than not will engage in such acts if released unconditionally from detention on the sexually violent predator petition. Such likelihood must be evidenced by a recent overt act if the person is not totally confined at the time the petition is filed under RCW 71.09.030.

(8) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

(9) "Predatory" means acts directed towards: (a) Strangers; (b) individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or (c) persons of casual acquaintance with whom no substantial personal relationship exists.



(10) "Recent overt act" means any act or threat that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act.

(11) "Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified by the department following the hearings on a potential site required in RCW 71.09.315. For purposes of this chapter, "school bus stops" does not include bus stops established primarily for public transit.

(12) "Secretary" means the secretary of social and health services or the secretary's designee.

(13) "Secure facility" means a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.

(14) "Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250(1)(a)(i) and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary.

(15) "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

(16) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

(17) "Total confinement facility" means a secure facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a total confinement facility by the secretary.

**Sec. 11.** RCW 71.09.060 and 2001 c 286 s 7 are each amended to read as follows:

(1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under section 4 of this act may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in RCW 71.09.020(~~(6)~~) (15)(c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to or has been released pursuant to RCW 10.77.090(4), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW 10.77.090(4) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) The state shall comply with RCW 10.77.220 while confining the person pursuant to this chapter, except that during all court proceedings the person shall be detained in a secure facility. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter.

**NEW SECTION. Sec. 12.** Sections 2 through 9 of this act are each added to chapter 71A.12 RCW.

Passed by the Senate March 7, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 304

[Fourth Substitute House Bill 1483]

### REINVESTING IN YOUTH PROGRAM

AN ACT Relating to investments in cost-effective intervention programs for juvenile justice-involved youth; adding new sections to chapter 13.40 RCW; adding a new section to chapter 43.135 RCW; creating new sections; and providing an effective date.

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

**NEW SECTION. Sec. 1.** The legislature finds that there are youth and family-focused intervention services that have been proven through rigorous evaluation in the state of Washington and elsewhere to significantly reduce

violence and crime while saving more public safety dollars than they cost. Under current state laws, no local government acting alone has the financial incentive to invest in these cost-effective services because the savings accrue to multiple levels of government with the largest savings going to the state. It is the intent of the legislature to create incentives for local government to invest in cost-effective intervention services that reduce crime by reimbursing local governments with a portion of the cost savings that accrue to the state as the result of local investments in such services.

**NEW SECTION. Sec. 2.** A new section is added to chapter 13.40 RCW to read as follows:

(1) The department of social and health services juvenile rehabilitation administration shall establish a reinvesting in youth program that awards grants to counties for implementing research-based early intervention services that target juvenile justice-involved youth and reduce crime, subject to the availability of amounts appropriated for this specific purpose.

(2) Effective July 1, 2007, any county or group of counties may apply for participation in the reinvesting in youth program.

(3) Counties that participate in the reinvesting in youth program shall have a portion of their costs of serving youth through the research-based intervention service models paid for with moneys from the reinvesting in youth account established pursuant to section 4 of this act.

(4) The department of social and health services juvenile rehabilitation administration shall review county applications for funding through the reinvesting in youth program and shall select the counties that will be awarded grants with funds appropriated to implement this program. The department, in consultation with the Washington state institute for public policy, shall develop guidelines to determine which counties will be awarded funding in accordance with the reinvesting in youth program. At a minimum, counties must meet the following criteria in order to participate in the reinvesting in youth program:

(a) Counties must match state moneys awarded for research-based early intervention services with nonstate resources that are at least proportional to the expected local government share of state and local government cost avoidance that would result from the implementation of such services;

(b) Counties must demonstrate that state funds allocated pursuant to this section are used only for the intervention service models authorized pursuant to section 3 of this act;

(c) Counties must participate fully in the state quality assurance program established in section 6 of this act to ensure fidelity of program implementation. If no state quality assurance program is in effect for a particular selected research-based service, the county must submit a quality assurance plan for state approval with its grant application. Failure to demonstrate continuing compliance with quality assurance plans shall be grounds for termination of state funding; and

(d) Counties that submit joint applications must submit for approval by the department of social and health services juvenile rehabilitation administration multicounty plans for efficient program delivery.

(5) The department of social and health services juvenile rehabilitation administration shall convene a technical advisory committee comprised of representatives from the house of representatives, the senate, the governor's

office of financial management, the department of social and health services juvenile rehabilitation administration, the family policy council, the juvenile court administrator's association, and the Washington association of counties to assist in the implementation of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 13.40 RCW to read as follows:

(1)(a) In order to receive funding through the reinvesting in youth program established pursuant to section 2 of this act, intervention service models must meet the following minimum criteria:

(i) There must be scientific evidence from at least one rigorous evaluation study of the specific service model that measures recidivism reduction;

(ii) There must be evidence that the specific service model's results can be replicated outside of an academic research environment;

(iii) The evaluation or evaluations of the service model must permit dollar cost estimates of both benefits and costs so that the benefit-cost ratio of the model can be calculated; and

(iv) The public taxpayer benefits to all levels of state and local government must exceed the service model costs.

(b) In calendar year 2006, for use beginning in fiscal year 2008, the Washington state institute for public policy shall publish a list of service models that are eligible for reimbursement through the investing in youth program. As authorized by the board of the institute and to the extent necessary to respond to new research and information, the institute shall periodically update the list of service models. The institute shall use the technical advisory committee established in section 2(5) of this act to review and provide comments on the list of service models that are eligible for reimbursement.

(2) In calendar year 2006, for use beginning in fiscal year 2008, the Washington state institute for public policy shall review and update the methodology for calculating cost savings resulting from implementation of this program. As authorized by the board of the institute and to the extent necessary to respond to new research and information, the institute shall periodically further review and update the methodology. As authorized by the board of the institute, when the institute reviews and updates the methodology for calculating cost savings, the institute shall provide an estimate of savings and avoided costs resulting from this program, along with a projection of future savings and avoided costs, to the appropriate committees of the legislature. The institute shall use the technical advisory committee established in section 2(5) of this act to review and provide comments on its methodology and cost calculations.

(3) In calendar year 2006, for use beginning in fiscal year 2008, the department of social and health services' juvenile rehabilitation administration shall establish a distribution formula to provide funding to local governments that implement research-based intervention services pursuant to this program. The department shall periodically update the distribution formula. The distribution formula shall require that the state allocation to local governments be proportional to the expected state government share of state and local government cost avoidance that would result from the implementation of such services based on the methodology maintained by the Washington state institute for public policy pursuant to subsection (2) of this section. The department shall

use the technical advisory committee established in section 2(5) of this act to review and provide comments on its proposed distribution formula.

(4) The department of social and health services juvenile rehabilitation administration shall provide a report to the legislature on the initial cost savings calculation methodology and distribution formula by October 1, 2006.

**NEW SECTION. Sec. 4.** A new section is added to chapter 13.40 RCW to read as follows:

(1) The reinvesting in youth account is created in the state treasury. Moneys in the account shall be spent only after appropriation. Expenditures from the account may be used to reimburse local governments for the implementation of the reinvesting in youth program established in sections 2 and 3 of this act.

(2) Revenues to the reinvesting in youth account consist of revenues appropriated to or deposited in the account.

(3) The department of social and health services juvenile rehabilitation administration shall review and monitor the expenditures made by any county or group of counties that is funded, in whole or in part, with funds provided through the reinvesting in youth account. Counties shall repay any funds that are not spent in accordance with sections 2 and 3 of this act.

**NEW SECTION. Sec. 5.** A new section is added to chapter 43.135 RCW to read as follows:

RCW 43.135.035(4) does not apply to the transfers established in section 4 of this act.

**NEW SECTION. Sec. 6.** A new section is added to chapter 13.40 RCW to read as follows:

The department of social and health services juvenile rehabilitation administration shall establish a state quality assurance program. The juvenile rehabilitation administration shall monitor the implementation of intervention services funded pursuant to section 4 of this act and shall evaluate adherence to service model design and service completion rate.

**NEW SECTION. Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 8.** Nothing in this act creates an entitlement for a county or group of counties to receive funding under the program in sections 2 and 3 of this act.

**NEW SECTION. Sec. 9.** This act takes effect July 1, 2006.

Passed by the House February 9, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 305

[Substitute House Bill 1510]

### PROPERTY TAX EXEMPTION—NONPROFIT ENTITIES

AN ACT Relating to the property taxation of nonprofit entities; amending RCW 84.36.030, 84.36.031, and 84.36.810; and reenacting and amending RCW 84.36.037.

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

**Sec. 1.** RCW 84.36.030 and 1993 c 327 s 2 are each amended to read as follows:

The following real and personal property shall be exempt from taxation:

(1)(a) Property owned by nonprofit organizations or associations, organized and conducted for nonsectarian purposes, which shall be used for character-building, benevolent, protective or rehabilitative social services directed at persons of all ages.

(b) The sale of donated merchandise shall not be considered a commercial use of the property under this section if the proceeds are devoted to the furtherance of the purposes of the selling organization or association as specified in this ~~((paragraph))~~ subsection (1).

(c) In a county with a population of less than twenty thousand, the rental or use of property, owned by a nonprofit organization or association described in (a) of this subsection, by a person, group, or organization in one of the following ways shall not nullify the exemption:

(i) The property may be rented or used for pecuniary gain or for business activities or by individuals, groups, and organizations for private purposes if the rental or use:

(A) Does not exceed fifteen days each assessment year;

(B) No comparable private for-profit facility exists within ten miles of the property that could be used for the same purpose for which the property is loaned or rented; and

(C) All income from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or for exempt purposes; or

(ii) The property is rented or used by a nonprofit community group or other nonprofit organization that might not qualify for exemption if it owned the property as long as the rental or use of the property:

(A) Does not exceed fifteen days each assessment year;

(B) Does not result in pecuniary gain;

(C) Does not involve business activities;

(D) Is always for the general public good; and

(E) All income from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or for exempt purposes.

(2) Property owned by any nonprofit church, denomination, group of churches, or an organization or association, the membership of which is comprised solely of churches or their qualified representatives, which is utilized as a camp facility if used for organized and supervised recreational activities and church purposes as related to such camp facilities. The exemption provided by this paragraph shall apply to a maximum of two hundred acres of any such camp as selected by the church, including buildings and other improvements thereon.

(3) Property, including buildings and improvements required for the maintenance and safeguarding of such property, owned by nonprofit organizations or associations engaged in character building of boys and girls under eighteen years of age, and used for such purposes and uses, provided such purposes and uses are for the general public good: PROVIDED, That if existing charters provide that organizations or associations, which would otherwise

qualify under the provisions of this paragraph, serve boys and girls up to the age of twenty-one years, then such organizations or associations shall be deemed qualified pursuant to this section.

(4)(a) Property owned by all organizations and societies of veterans of any war of the United States, recognized as such by the department of defense, which shall have national charters, and which shall have for their general purposes and objects the preservation of the memories and associations incident to their war service and the consecration of the efforts of their members to mutual helpfulness and to patriotic and community service to state and nation. To be exempt such property must be used in such manner as may be reasonably necessary to carry out the purposes and objects of such societies.

(b) The use of the property for pecuniary gain or ~~((to promote))~~ for business activities, except as provided in this subsection (4), nullifies the exemption otherwise available for the property for the assessment year. The exemption is not nullified by:

~~((a))~~ (i) The collection of rent or donations if the amount is reasonable and does not exceed maintenance and operation expenses.

~~((b))~~ (ii) Fund-raising activities conducted by a nonprofit organization.

~~((c))~~ (iii) The use of the property for pecuniary gain for periods of not more than ~~((three))~~ fifteen days in a year.

~~((d))~~ (c) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(5) Property owned by all corporations, incorporated under any act of congress, whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same.

(6) Property owned by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the internal revenue code of 1954, as amended, that are guarantee agencies under the federal guaranteed student loan program or that issue debt to provide or acquire student loans.

(7) To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805.

(8) For the purposes of this section, "general public good" means members of the community derive a benefit from the rental or use of the property by the nonprofit community group or organization.

**Sec. 2.** RCW 84.36.031 and 1969 c 137 s 2 are each amended to read as follows:

Property leased, loaned, sold with the option to repurchase, or otherwise made available to organizations ~~((as set out))~~ described in RCW 84.36.030 above shall not be exempt from taxation ~~((: PROVIDED, That property which))~~. However, property that is owned by an organization ~~((as set out in))~~ exempt under RCW 84.36.030 may loan, lease, or rent the property to another organization for the same purpose as set out in RCW 84.36.030.



**Sec. 3.** RCW 84.36.037 and 1998 c 311 s 19 and 1998 c 189 s 1 are each reenacted and amended to read as follows:

(1) Real or personal property owned by a nonprofit organization, association, or corporation in connection with the operation of a public assembly hall or meeting place is exempt from taxation. The area exempt under this section includes the building or buildings, the land under the buildings, and an additional area necessary for parking, not exceeding a total of one acre. When property for which exemption is sought is essentially unimproved except for restroom facilities and structures and this property has been used primarily for annual community celebration events for at least ten years, the exempt property shall not exceed twenty-nine acres.

(2) To qualify for this exemption the property must be used exclusively for public gatherings and be available to all organizations or persons desiring to use the property, but the owner may impose conditions and restrictions which are necessary for the safekeeping of the property and promote the purposes of this exemption. Membership shall not be a prerequisite for the use of the property.

(3) The use of the property for pecuniary gain or ~~((to promote))~~ for business activities, except as provided in this section, nullifies the exemption otherwise available for the property for the assessment year. The exemption is not nullified by:

(a) The collection of rent or donations if ~~((the amount is reasonable and does not exceed maintenance and operation expenses created by the user))~~ all funds collected are used for capital improvements to the exempt property, maintenance and operation of the exempt property, or for exempt purposes.

(b) Fund-raising activities conducted by a nonprofit organization.

(c) The use of the property for pecuniary gain ~~((or to promote))~~, for business activities for periods of not more than ~~((seven))~~ fifteen days ~~((in a))~~ each assessment year so long as all income received from rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation of the exempt property, or for exempt purposes.

(d) In a county with a population of less than ~~((ten))~~ twenty thousand, the use of the property to promote the following business activities: Dance lessons, art classes, or music lessons.

(e) An inadvertent use of the property in a manner inconsistent with the purpose for which exemption is granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(4) The department of revenue shall narrowly construe this exemption.

**Sec. 4.** RCW 84.36.810 and 2003 c 344 s 2 are each amended to read as follows:

(1)(a) Upon cessation of a use under which an exemption has been granted pursuant to RCW 84.36.030, 84.36.037, 84.36.040, 84.36.041, 84.36.042, 84.36.043, 84.36.046, 84.36.050, 84.36.060, 84.36.550, ~~((84.36.650,))~~ 84.36.560, ~~((and))~~ 84.36.570, and 84.36.650, except as provided in (b) of this subsection, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the three years preceding, or the life of such exemption, if such be less, together with the interest at the same rate and computed in the same way as that upon delinquent property taxes. If the

property has been granted an exemption for more than ten consecutive years, taxes and interest shall not be assessed under this section.

(b) Upon cessation of use by an institution of higher education of property exempt under RCW 84.36.050(2) the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the seven years preceding, or the life of the exemption, whichever is less.

(2) Subsection (1) of this section applies only when ownership of the property is transferred or when fifty-one percent or more of the area of the property loses its exempt status. The additional tax under subsection (1) of this section shall not be imposed if the cessation of use resulted solely from:

(a) Transfer to a nonprofit organization, association, or corporation for a use which also qualifies and is granted exemption under this chapter;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Official action by an agency of the state of Washington or by the county or city within which the property is located which disallows the present use of such property;

(d) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the organization, association, or corporation changing the use of such property;

(e) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempted under RCW 84.36.030;

(f) Cancellation of a lease on leased property that had been exempt under this chapter; ~~((e))~~

(g) A change in the exempt portion of a home for the aging under RCW 84.36.041(3), as long as some portion of the home remains exempt; or

(h) Transfer to an agency of the state of Washington or the city or county within which the property is located.

(3) Subsection ~~((s))~~ (2)(e) and (f) of this section do not apply to property leased to a state institution of higher education and exempt under RCW 84.36.050(2).

Passed by the House March 4, 2006.

Passed by the Senate March 2, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 306

[House Bill 2465]

### MOTOR VEHICLES—EQUIPMENT STANDARDS

AN ACT Relating to vehicle equipment standards related to original equipment installed; and amending RCW 46.37.010, 46.37.070, 46.37.200, and 46.37.390.

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

**Sec. 1.** RCW 46.37.010 and 2005 c 213 s 7 are each amended to read as follows:

(1) It is a traffic infraction for any person to drive or move, or for ~~((the))~~ a vehicle owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles ~~((which))~~ that:

~~((a))~~ Is in such unsafe condition as to endanger any person~~((, or which does not contain those parts or))~~;

~~((b))~~ Is not at all times equipped with such lamps and other equipment in proper working condition and adjustment as required ~~((it))~~ by this chapter or ~~((in regulations))~~ by rules issued by ~~((the chief of))~~ the Washington state patrol~~((, or which is equipped in any manner))~~;

~~((c))~~ Contains any parts in violation of this chapter or ~~((the state patrol's regulations, or))~~ rules issued by the Washington state patrol.

(2) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required under this chapter or ~~((the state patrol's regulations))~~ rules issued by the Washington state patrol.

~~((2))~~ (3) Nothing contained in this chapter or the state patrol's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the state patrol's regulations.

~~((3))~~ (4) The provisions of the chapter and the state patrol's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

~~((4))~~ (5) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

~~((5))~~ (6) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state patrol.

~~((6))~~ (7) The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles except as herein made applicable.

~~((7))~~ (8) This chapter does not apply to off-road vehicles used on nonhighway roads.

~~((8))~~ (9) This chapter does not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

~~((9))~~ (10) Notices of traffic infraction issued to commercial drivers under the provisions of this chapter with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes under chapter 46.20 RCW.

~~((10))~~ (11) Whenever a traffic infraction is chargeable to the owner or lessee of a vehicle under subsection (1) of this section, the driver shall not be arrested or issued a notice of traffic infraction unless the vehicle is registered in a jurisdiction other than Washington state, or unless the infraction is for an offense that is clearly within the responsibility of the driver.

~~((11))~~ (12) Whenever the owner or lessee is issued a notice of traffic infraction under this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who

directs the loading, maintenance, or operation of the vehicle, a codefendant. If the codefendant is held solely responsible and is found to have committed the traffic infraction, the court may dismiss the notice against the owner or lessee.

**Sec. 2.** RCW 46.37.070 and 1977 ex.s. c 355 s 7 are each amended to read as follows:

(1) After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps meeting the requirements of RCW 46.37.200, except that passenger cars manufactured or assembled prior to January 1, 1964, shall be equipped with at least one such stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified in RCW 46.37.200(1).

(2) After January 1, 1960, every motor vehicle, trailer, semitrailer and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of RCW 46.37.200(2), except that passenger cars, trailers, semitrailers, pole trailers, and trucks less than eighty inches in width, manufactured or assembled prior to January 1, 1953, need not be equipped with electric turn signal lamps.

(3) Every passenger car manufactured or assembled after September 1, 1985; and every passenger truck, passenger van, or passenger sports utility vehicle manufactured or assembled after September 1, 1993, must be equipped with a rear center high-mounted stop lamp meeting the requirements of RCW 46.37.200(3).

**Sec. 3.** RCW 46.37.200 and 1977 ex.s. c 355 s 17 are each amended to read as follows:

(1) Any vehicle may be equipped and when required under this chapter shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred feet and on any vehicle manufactured or assembled after January 1, 1964, three hundred feet to the rear in normal sunlight, and which shall be actuated upon application of a service brake, and which may but need not be incorporated with one or more other rear lamps.

(2) Any vehicle may be equipped and when required under RCW 46.37.070(2) shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light: PROVIDED, That on any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamp showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps shall be visible from a distance of not less than five hundred feet to the front and rear in normal sunlight. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.

(3) Any vehicle may be equipped and when required under this chapter shall be equipped with a center high-mounted stop lamp mounted on the center line of

the rear of the vehicle. These stop lamps shall display a red light visible from a distance of not less than three hundred feet to the rear in normal sunlight, and shall be actuated upon application of a service brake, and may not be incorporated with any other rear lamps.

**Sec. 4.** RCW 46.37.390 and 2001 c 293 s 1 are each amended to read as follows:

(1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

(2)(a) No motor vehicle first sold and registered as a new motor vehicle on or after January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 1 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a)(i) above.

(b) No motor vehicle first sold and registered prior to January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 2 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (b)(i) above.

(c) For the purposes of this subsection the following definitions shall apply:

(i) "Opacity" means the degree to which an emission reduces the transmission of light and obscures the view of an object in the background;

(ii) "Ringelmann chart" means the Ringelmann smoke chart with instructions for use as published by the United States bureau of mines in May 1967 and as thereafter amended, information circular 7718.

(3) No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the engine of such vehicle above that emitted by the muffler originally installed on the vehicle, and it shall be unlawful for any person to operate a motor vehicle not equipped as required by this subsection, or which has been amplified as prohibited by this subsection (~~so that the vehicle's exhaust noise exceeds ninety five decibels as measured by the Society of Automotive Engineers (SAE) test procedure J1169 (May, 1998). It is not a violation of this subsection unless proven by proper authorities that the exhaust system modification results in noise amplification in excess of ninety five decibels under the prescribed SAE test standard~~). A court may dismiss an infraction notice for a violation of this subsection if there is reasonable grounds to believe that the vehicle was not operated in violation of this subsection.

This subsection (3) does not apply to vehicles twenty-five or more years old or to passenger vehicles being operated off the highways in an organized racing or competitive event conducted by a recognized sanctioning body.

Passed by the House March 6, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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**CHAPTER 307**

[Engrossed Second Substitute House Bill 2575]

**HEALTH TECHNOLOGY CLINICAL COMMITTEE**

AN ACT Relating to establishing a state health technology assessment program; amending RCW 41.05.013; adding new sections to chapter 70.14 RCW; and creating new sections.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 70.14 RCW to read as follows:

**DEFINITIONS.** The definitions in this section apply throughout sections 2 through 7 of this act unless the context clearly requires otherwise.

(1) "Administrator" means the administrator of the Washington state health care authority under chapter 41.05 RCW.

(2) "Advisory group" means a group established under section 4(2)(c) of this act.

(3) "Committee" means the health technology clinical committee established under section 2 of this act.

(4) "Coverage determination" means a determination of the circumstances, if any, under which a health technology will be included as a covered benefit in a state purchased health care program.

(5) "Health technology" means medical and surgical devices and procedures, medical equipment, and diagnostic tests. Health technologies does not include prescription drugs governed by RCW 70.14.050.

(6) "Participating agency" means the department of social and health services, the state health care authority, and the department of labor and industries.

(7) "Reimbursement determination" means a determination to provide or deny reimbursement for a health technology included as a covered benefit in a specific circumstance for an individual patient who is eligible to receive health care services from the state purchased health care program making the determination.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.14 RCW to read as follows:

**HEALTH TECHNOLOGY COMMITTEE ESTABLISHED.** (1) A health technology clinical committee is established, to include the following eleven members appointed by the administrator in consultation with participating state agencies:

(a) Six practicing physicians licensed under chapter 18.57 or 18.71 RCW; and

(b) Five other practicing licensed health professionals who use health technology in their scope of practice.

At least two members of the committee must have professional experience treating women, children, elderly persons, and people with diverse ethnic and racial backgrounds.

(2) Members of the committee:

(a) Shall not contract with or be employed by a health technology manufacturer or a participating agency during their term or for eighteen months before their appointment. As a condition of appointment, each person shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest;

(b) Are immune from civil liability for any official acts performed in good faith as members of the committee; and

(c) Shall be compensated for participation in the work of the committee in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the committee.

(3) Meetings of the committee and any advisory group are subject to chapter 42.30 RCW, the open public meetings act, including RCW 42.30.110(1)(1), which authorizes an executive session during a regular or special meeting to consider proprietary or confidential nonpublished information.

(4) Neither the committee nor any advisory group is an agency for purposes of chapter 34.05 RCW.

(5) The health care authority shall provide administrative support to the committee and any advisory group, and may adopt rules governing their operation.

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.14 RCW to read as follows:

**TECHNOLOGY SELECTION AND ASSESSMENT.** (1) The administrator, in consultation with participating agencies and the committee, shall select the health technologies to be reviewed by the committee under section 4 of this act. Up to six may be selected for review in the first year after the effective date of this act, and up to eight may be selected in the second year after the effective date of this act. In making the selection, priority shall be given to any technology for which:

(a) There are concerns about its safety, efficacy, or cost-effectiveness, especially relative to existing alternatives, or significant variations in its use;

(b) Actual or expected state expenditures are high, due to demand for the technology, its cost, or both; and

(c) There is adequate evidence available to conduct the complete review.

(2) A health technology for which the committee has made a determination under section 4 of this act shall be considered for rereview at least once every eighteen months, beginning the date the determination is made. The administrator, in consultation with participating agencies and the committee, shall select the technology for rereview if he or she decides that evidence has since become available that could change a previous determination. Upon rereview, consideration shall be given only to evidence made available since the previous determination.

(3) Pursuant to a petition submitted by an interested party, the health technology clinical committee may select health technologies for review that have not otherwise been selected by the administrator under subsection (1) or (2) of this section.

(4) Upon the selection of a health technology for review, the administrator shall contract for a systematic evidence-based assessment of the technology's safety, efficacy, and cost-effectiveness. The contract shall:

(a) Be with an evidence-based practice center designated as such by the federal agency for health care research and quality, or other appropriate entity;

(b) Require the assessment be initiated no sooner than thirty days after notice of the selection of the health technology for review is posted on the internet under section 7 of this act;

(c) Require, in addition to other information considered as part of the assessment, consideration of: (i) Safety, health outcome, and cost data submitted by a participating agency; and (ii) evidence submitted by any interested party; and

(d) Require the assessment to: (i) Give the greatest weight to the evidence determined, based on objective indicators, to be the most valid and reliable, considering the nature and source of the evidence, the empirical characteristic of the studies or trials upon which the evidence is based, and the consistency of the outcome with comparable studies; and (ii) take into account any unique impacts of the technology on specific populations based upon factors such as sex, age, ethnicity, race, or disability.

**NEW SECTION. Sec. 4.** A new section is added to chapter 70.14 RCW to read as follows:

**HEALTH TECHNOLOGY COMMITTEE DETERMINATIONS.** (1) The committee shall determine, for each health technology selected for review under section 3 of this act: (a) The conditions, if any, under which the health technology will be included as a covered benefit in health care programs of participating agencies; and (b) if covered, the criteria which the participating agency administering the program must use to decide whether the technology is medically necessary, or proper and necessary treatment.

(2) In making a determination under subsection (1) of this section, the committee:

(a) Shall consider, in an open and transparent process, evidence regarding the safety, efficacy, and cost-effectiveness of the technology as set forth in the systematic assessment conducted under section 3(4) of this act;

(b) Shall provide an opportunity for public comment; and

(c) May establish ad hoc temporary advisory groups if specialized expertise is needed to review a particular health technology or group of health technologies, or to seek input from enrollees or clients of state purchased health care programs. Advisory group members are immune from civil liability for any official act performed in good faith as a member of the group. As a condition of appointment, each person shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest.

(3) Determinations of the committee under subsection (1) of this section shall be consistent with decisions made under the federal medicare program and in expert treatment guidelines, including those from specialty physician organizations and patient advocacy organizations, unless the committee concludes, based on its review of the systematic assessment, that substantial evidence regarding the safety, efficacy, and cost-effectiveness of the technology supports a contrary determination.



**NEW SECTION. Sec. 5.** A new section is added to chapter 70.14 RCW to read as follows:

**COMPLIANCE BY STATE AGENCIES.** (1) A participating agency shall comply with a determination of the committee under section 4 of this act unless:

(a) The determination conflicts with an applicable federal statute or regulation, or applicable state statute; or

(b) Reimbursement is provided under an agency policy regarding experimental or investigational treatment, services under a clinical investigation approved by an institutional review board, or health technologies that have a humanitarian device exemption from the federal food and drug administration.

(2) For a health technology not selected for review under section 3 of this act, a participating agency may use its existing statutory and administrative authority to make coverage and reimbursement determinations. Such determinations shall be shared among agencies, with a goal of maximizing each agency's understanding of the basis for the other's decisions and providing opportunities for agency collaboration.

(3) A health technology not included as a covered benefit under a state purchased health care program pursuant to a determination of the health technology clinical committee under section 4 of this act, or for which a condition of coverage established by the committee is not met, shall not be subject to a determination in the case of an individual patient as to whether it is medically necessary, or proper and necessary treatment.

(4) Nothing in this act diminishes an individual's right under existing law to appeal an action or decision of a participating agency regarding a state purchased health care program. Appeals shall be governed by state and federal law applicable to participating agency decisions.

**\*NEW SECTION. Sec. 6.** A new section is added to chapter 70.14 RCW to read as follows:

**APPEAL PROCESS.** *The administrator shall establish an open, independent, transparent, and timely process to enable patients, providers, and other stakeholders to appeal the determinations of the health technology clinical committee made under section 4 of this act.*

\*Sec. 6 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 7.** A new section is added to chapter 70.14 RCW to read as follows:

**PUBLIC NOTICE.** (1) The administrator shall develop a centralized, internet-based communication tool that provides, at a minimum:

(a) Notification when a health technology is selected for review under section 3 of this act, indicating when the review will be initiated and how an interested party may submit evidence, or provide public comment, for consideration during the review;

(b) Notification of any determination made by the committee under section 4(1) of this act, its effective date, and an explanation of the basis for the determination; and

(c) Access to the systematic assessment completed under section 3(4) of this act, and reports completed under subsection (2) of this section.

(2) Participating agencies shall develop methods to report on the implementation of this section and sections 1 through 6 of this act with respect to

health care outcomes, frequency of exceptions, cost outcomes, and other matters deemed appropriate by the administrator.

**Sec. 8.** RCW 41.05.013 and 2005 c 462 s 3 are each amended to read as follows:

(1) The authority shall coordinate state agency efforts to develop and implement uniform policies across state purchased health care programs that will ensure prudent, cost-effective health services purchasing, maximize efficiencies in administration of state purchased health care programs, improve the quality of care provided through state purchased health care programs, and reduce administrative burdens on health care providers participating in state purchased health care programs. The policies adopted should be based, to the extent possible, upon the best available scientific and medical evidence and shall endeavor to address:

(a) Methods of formal assessment, such as a health technology assessment under sections 1 through 7 of this act. Consideration of the best available scientific evidence does not preclude consideration of experimental or investigational treatment or services under a clinical investigation approved by an institutional review board;

(b) Monitoring of health outcomes, adverse events, quality, and cost-effectiveness of health services;

(c) Development of a common definition of medical necessity; and

(d) Exploration of common strategies for disease management and demand management programs, including asthma, diabetes, heart disease, and similar common chronic diseases. Strategies to be explored include individual asthma management plans. On January 1, 2007, and January 1, 2009, the authority shall issue a status report to the legislature summarizing any results it attains in exploring and coordinating strategies for asthma, diabetes, heart disease, and other chronic diseases.

(2) The administrator may invite health care provider organizations, carriers, other health care purchasers, and consumers to participate in efforts undertaken under this section.

(3) For the purposes of this section "best available scientific and medical evidence" means the best available clinical evidence derived from systematic research.

**NEW SECTION. Sec. 9.** A new section is added to chapter 70.14 RCW to read as follows:

Sections 1 through 7 of this act and RCW 41.05.013 do not apply to state purchased health care services that are purchased from or through health carriers as defined in RCW 48.43.005.

**NEW SECTION. Sec. 10.** Captions used in this act are not any part of the law.

**NEW SECTION. Sec. 11.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet

federal requirements that are a necessary condition to the receipt of federal funds by the state.

Passed by the House March 6, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 29, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 6, Engrossed Second Substitute House Bill No. 2575 entitled:

"AN ACT Relating to establishing a state health technology assessment program."

I strongly support ESSHB No. 2575 and particularly its inclusion of language that protects an individual's right to appeal. Section 5(4) of the bill states that "nothing in this act diminishes an individual's right under existing law to appeal an action or decision of a participating agency regarding a state purchased health care program. Appeals shall be governed by state and federal law applicable to participating agency decisions." This is an important provision and one that I support whole-heartedly.

I am, however, vetoing Section 6 of this bill, which establishes an additional appeals process for patients, providers, and other stakeholders who disagree with the coverage determinations of the Health Technology Clinical Committee. The health care provider expertise on the clinical committee and the use of an evidence-based practice center should lend sufficient confidence in the quality of decisions made. Where issues may arise, I believe the individual appeal process highlighted above is sufficient to address them, without creating a duplicative and more costly process.

In the implementation of this bill, I expect the Health Care Authority, with the cooperation of participating agencies, to facilitate a timely and transparent process, to prioritize and manage the review of technologies within appropriated funds, and to meaningfully consider stakeholder feedback regarding the program and appeals processes. I further expect that the implementation of the Health Technology Assessment Program will be consistent with sound methods of assessment and the principles of evidence-based medicine.

I appreciate the Legislature's passage of this bill and have full confidence that it will help ensure that Washingtonians receive health care services that are safe and effective.

For these reasons, I have vetoed Section 6 of ESSHB No. 2575.

With the exception of Section 6, ESSHB No. 2575 is approved."

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## CHAPTER 308

[Second Substitute House Bill 2583]

### COMMUNITY AND TECHNICAL COLLEGES—PART-TIME ACADEMIC EMPLOYEES— HEALTH CARE BENEFITS

AN ACT Relating to community and technical college part-time academic employee health care benefits; adding a new section to chapter 41.05 RCW; adding a new section to chapter 28B.50 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** Part-time academic employees at community and technical colleges are currently eligible for full health care benefits beginning the second consecutive quarter of employment, at half-time or more of an academic workload, as defined in RCW 28B.50.489. They are also eligible for health benefits through the summer even if they receive no work at all that

quarter, if they have worked half-time or more of an academic workload in three of the four preceding quarters. However, workload fluctuations below these thresholds may result in the loss of employer contributions for health care benefits. It is the intent of the legislature to provide for continuous health care eligibility for part-time academic employees based on averaging workload gained during the preceding academic year.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) Part-time academic employees, as defined in RCW 28B.50.489, who have established eligibility as determined from the payroll records of the employing community or technical college districts, for employer contributions for benefits under this chapter and who have worked an average of half-time or more in each of the two preceding academic years, through employment at one or more community or technical college districts, are eligible for continuation of employer contributions for the subsequent summer quarter period including the break between summer and fall quarters.

(2) Once a part-time academic employee meets the criteria in subsection (1) of this section, the employee shall continue to receive uninterrupted employer contributions for benefits if the employee works at least three of the four quarters of the academic year with an average academic workload of half-time or more. Benefits provided under this section cease at the end of the academic year if this criteria is not met. Continuous benefits shall be reinstated once the employee reestablishes eligibility under subsection (1) of this section and will be maintained as long as the employee works at least three of the four quarters of the academic year with an average academic workload of half-time or more.

(3) As used in this section, "academic year" means summer, fall, winter, and spring quarters.

(4) This section does not modify rules in existence on the effective date of this section adopted under this chapter regarding the initial establishment of eligibility for benefits.

(5) This section does not preclude individuals from being eligible for benefits under other laws or rules that may apply or for which they may be eligible.

(6) The employer must notify part-time academic employees of their potential right to benefits under this section.

(7) To be eligible for maintenance of benefits through averaging, part-time academic employees must notify their employers of their potential eligibility. The state board for community and technical colleges shall report back to the legislature by November 15, 2009, on the feasibility of eliminating the self-reporting requirement for employees.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.50 RCW to read as follows:

Health care benefits for part-time academic employees are governed by section 2 of this act.

Passed by the House February 9, 2006.

Passed by the Senate March 8, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 309

[Engrossed Substitute House Bill 2685]

## PUBLIC SAFETY EMPLOYEES' RETIREMENT SYSTEM

AN ACT Relating to general provisions in the public safety employees' retirement system; amending RCW 41.37.005, 41.37.010, 41.04.270, 41.04.278, and 41.04.393; and declaring an emergency.

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

**Sec. 1.** RCW 41.37.005 and 2004 c 242 s 1 are each amended to read as follows:

It is the intent of the legislature to establish a separate public safety employees' retirement system for ~~((those))~~ certain public employees whose jobs contain a high degree of physical risk to their own personal safety and who ~~((engage in duties contained in this section. The duties involved in these jobs include providing))~~ provide public protection of lives and property, ~~((the authority and power to arrest, conducting criminal investigations, enforcing the criminal laws of the state of Washington, and the authority to carry a firearm as part of the job. Qualifications and training for these jobs include passage of a civil service examination and completion of the Washington criminal justice training commission basic training course or equivalent. Only those job classes specifically included in RCW 41.37.010(5) by the legislature are public safety employees, and only for service earned after the effective date of the inclusion of that job class in RCW 41.37.010(5)))~~ but who are not eligible for membership in the law enforcement officers' and fire fighters' retirement system.

**Sec. 2.** RCW 41.37.010 and 2005 c 327 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) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, and the Washington state liquor control board~~((;))~~; any county corrections department~~((;))~~; any city corrections department~~((;))~~ not covered under chapter 41.28 RCW~~((;))~~; or other employers employing statewide elective officials.

(5) "Member" means any employee employed by an employer on a full-time~~((, fully compensated))~~ basis ~~((within the following job classes in effect as of January 1, 2004: City corrections officers, jailers, police support officers, custody officers, and bailiffs; county corrections officers, jailers, custody officers, and sheriffs corrections officers; county probation officers and probation counselors; state correctional officers, correctional sergeants, and community corrections officers; liquor enforcement officers; park rangers; commercial vehicle enforcement officers; and gambling special agents))~~;

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct

criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer; or

(d) Whose primary responsibility is to supervise members eligible under this subsection.

(6)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.070;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(7) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid.

Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(8) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(9) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(10) "Membership service" means all service rendered as a member.

(11) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12) "Regular interest" means such rate as the director may determine.

(13) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(14) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(15) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(16) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(17) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(18) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(19) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(20) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(21) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(22) "Eligible position" means any permanent, full-time, fully compensated position included in subsection (5) of this section.

(23) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(24) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(25) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(26) "Director" means the director of the department.

(27) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(28) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(29) "Plan" means the Washington public safety employees' retirement system plan 2.

(30) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(31) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(32) "Index B" means the index for the year prior to index A.

(33) "Adjustment ratio" means the value of index A divided by index B.

(34) "Separation from service" occurs when a person has terminated all employment with an employer.

**Sec. 3.** RCW 41.04.270 and 2005 c 327 s 1 are each amended to read as follows:

(1) Except as provided in chapter 2.10, 2.12, 41.26, 41.28, 41.32, 41.35, 41.37, 41.40, or 43.43 RCW, on and after March 19, 1976, any member or former member who (a) receives a retirement allowance earned by ~~((said))~~ the former member as deferred compensation from any public retirement system authorized by the general laws of this state, or (b) is eligible to receive a retirement allowance from any public retirement system listed in RCW 41.50.030, but chooses not to apply, or (c) is the beneficiary of a disability allowance from any public retirement system listed in RCW 41.50.030 shall be estopped from becoming a member of or accruing any contractual rights whatsoever in any other public retirement system listed in RCW 41.50.030: PROVIDED, That (a) and (b) of this subsection shall not apply to persons who have accumulated less than fifteen years service credit in any such system.

(2) Nothing in this section is intended to apply to any retirement system except those listed in RCW 41.50.030 and the city employee retirement systems for Seattle, Tacoma, and Spokane. Subsection (1)(b) of this section does not apply to a dual member as defined in RCW 41.54.010.



**Sec. 4.** RCW 41.04.278 and 2003 c 295 s 2 are each amended to read as follows:

(1) The select committee on pension policy may form three function-specific subcommittees, as set forth under subsection (2) of this section, from the members under RCW 41.04.276(1) (a) through (e), as follows:

(a) A public safety subcommittee with one member from each group under RCW 41.04.276(1) (a) through (e);

(b) An education subcommittee with one member from each group under RCW 41.04.276(1) (a) through (e); and

(c) A state and local government subcommittee, with one retiree member under RCW 41.04.276(1)(d) and two members from each group under RCW 41.04.276(1) (a) through (c) and (e).

The retiree members may serve on more than one subcommittee to ensure representation on each subcommittee.

(2)(a) The public safety subcommittee shall focus on pension issues affecting public safety employees who are members of the law enforcement officers' and fire fighters' public safety employees' and Washington state patrol retirement systems.

(b) The education subcommittee shall focus on pension issues affecting educational employees who are members of the public employees', teachers', and school employees' retirement systems.

(c) The state and local government subcommittee shall focus on pension issues affecting state and local government employees who are members of the public employees' retirement system.

**Sec. 5.** RCW 41.04.393 and 2003 c 32 s 1 are each amended to read as follows:

Retirement benefits paid under chapter 41.26, 41.37, 41.40, or 43.43 RCW to beneficiaries of public safety officers who die in the line of duty shall be paid in accordance with Title 26 U.S.C. Sec. 101(h) as amended by the Fallen Hero Survivor Benefit Fairness Act of 2001.

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

Passed by the House February 11, 2006.

Passed by the Senate March 7, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 310

[Substitute House Bill 2778]

### BUSINESS AND OCCUPATION TAX EXEMPTION—TOURISM PROMOTION

AN ACT Relating to the business and occupation taxation of payments and contributions to nonprofit convention and tourism promotion corporations by public entities; and adding a new section to chapter 82.04 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to amounts received by a nonprofit corporation organized under chapter 24.03 RCW as payments or contributions from the state or any county, city, town, municipal corporation, quasi-municipal corporation, federally recognized Indian tribe, port district, or public corporation for the promotion of conventions and tourism.

Passed by the House March 8, 2006.

Passed by the Senate March 8, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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### CHAPTER 311

[Engrossed Substitute House Bill 2871]

#### REGIONAL TRANSPORTATION GOVERNANCE

AN ACT Relating to regional transportation governance; amending RCW 36.120.020, 36.120.030, 36.120.040, 36.120.070, 29A.36.071, 36.120.080, 36.120.110, 81.112.030, 36.120.050, 81.100.080, 81.100.060, 82.14.0455, 82.14.430, 82.80.120, 47.56.076, 36.73.015, and 36.73.020; reenacting and amending RCW 43.79A.040, 43.84.092, and 43.84.092; adding new sections to chapter 36.120 RCW; adding a new section to chapter 47.56 RCW; adding new sections to chapter 47.01 RCW; creating new sections; providing an effective date; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** The legislature finds that effective transportation planning in urbanized regions requires stronger and clearer lines of responsibility and accountability.

The legislature further finds that integrated, multimodal transportation planning will help reduce transportation congestion and improve safety, and that streamlined decision making will help reduce political congestion.

The legislature further finds that coordinated planning of, investment in, and operation of transportation systems will have significant benefit to the citizens of Washington, and that it is the will of the people to fund regional transportation solutions, including improving transit service in urbanized areas and among existing, fragmented transit agencies in the region. Although equity considerations must be respected, transportation problems are broader and deeper than the sum of geographic subareas.

It is therefore the policy of the state of Washington to create a regional transportation commission to develop a proposal for a regional transportation governing entity more directly accountable to the public, and to develop a comprehensive regional transportation finance plan for the citizens of the Puget Sound metropolitan region.

**NEW SECTION. Sec. 2.** (1) The regional transportation commission is established.

(2) The commission shall consist of nine voting commissioners. The commissioners shall be appointed by the governor by June 1, 2006. The governor shall appoint four commissioners from designated lists of three nominees submitted by each major party caucus of the legislature, with one commissioner to be appointed from each respective list of nominees. The governor shall appoint the additional five commissioners independent of the legislative caucus nominees. In addition, the secretary of transportation or the secretary's designee shall serve as a nonvoting member. Appointments of

commissioners must reflect geographical balance and diversity of populations within the central Puget Sound region and, to the extent possible, include commissioners with special expertise in relevant fields such as funding, planning, and construction of transportation improvement projects, structural reorganizations, and operation of transportation systems. Appointees must be citizen members who do not hold public office. Vacancies for any appointed commission seat shall be filled in the same manner as the original appointments were made.

(3) The term of office for a commissioner begins seven days following appointment by the governor. A commissioner must be a qualified elector under the state Constitution when his or her term of office begins.

(4) The commission chair presides over the commission and sets the commission agenda subject to general rules established by the commission. Except as provided otherwise in this act, the commission chair appoints all members of the committees, councils, and boards created by the rules of the commission. The commission chair shall be designated by the governor from among the commissioners appointed under subsection (2) of this section.

(5) Each member of the commission is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chair. A commissioner may be compensated under this subsection only if the compensation is necessarily incurred in the course of authorized business, consistent with the responsibilities of the commission established by this act.

(6) The commission may be entitled to state funding, as appropriated by the legislature, to pay for expenses incurred by the commission and the department of transportation and through contracts in carrying out the duties authorized in this act.

(7) The department of transportation shall provide staff support to the commission and, upon request of the commission, contract with other parties for staff support to the commission.

**NEW SECTION. Sec. 3.** The regional transportation commission has the following duties:

(1) Evaluate transportation governance in the central Puget Sound area within the jurisdiction of the Puget Sound regional council. This evaluation must include an assessment of the current roles of regional transportation agencies, including regional transportation and metropolitan planning organizations, the regional transit authority, regional transportation investment districts, county and municipal agencies operating transit services, and cities, counties, and other public agencies providing transportation services or facilities, including the state department of transportation. The commission shall assess and develop recommendations for what steps should be taken to:

(a) Consolidate governance among agencies, including changes in institutional powers, structures, and relationships and governance needed to improve accountability for transportation decisions, while enhancing the regional focus for transportation decisions and maintaining equity among citizens in the region;

(b) Improve coordination in the planning of transportation investments and services;

- (c) Improve investment strategies;
  - (d) Coordinate transportation planning and investments with adopted land use policies within the region;
  - (e) Enhance efficiency and coordination in the delivery of services provided;
  - (f) Adjust boundaries for agencies or functions within the region to address existing and future transportation and land use issues; and
  - (g) Improve coordination between regional investments and federal funds, and state funding, including those administered by the transportation improvement board, the county road administration board, and the freight mobility strategic investment board;
- (2) Develop options for a regional transportation governance proposal that include, at a minimum, an option providing for the formation of a regional transportation governing entity, of which all of its members must be directly elected, the revenue sources that will be available to such entity, and the scope of planning authority of such entity. The commission shall consult with affected jurisdictions when developing a proposal under this subsection;
- (3) Develop a comprehensive financing strategy and recommended revenue options for improving transportation system performance within the region through investments in transportation projects, including, but not limited to, system-wide pricing policies and network value-pricing charges;
- (4) Publicize the commission's proposal referenced in subsection (2) of this section, and the list of revenue options referenced in subsection (3) of this section, by November 15, 2006, and provide at least fifteen days for public comment;
- (5) Adopt the proposal referenced in subsection (2) of this section, and the list of revenue options referenced in subsection (3) of this section, and submit them to the legislature by January 1, 2007, after which time the commission shall dissolve; and
- (6) Conduct public meetings to assure active public participation in the development of the recommendations, proposal, and finance plan under this section.

**Sec. 4.** RCW 36.120.020 and 2002 c 56 s 102 are each amended to read as follows:

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

- (1) "Board" means the governing body of a regional transportation investment district.
- (2) "Department" means the Washington state department of transportation.
- (3) "Highway of statewide significance" means an existing or proposed state route or federal interstate designated as a highway of statewide significance by the transportation commission, its successor entity, or the legislature.
- (4) "Lead agency" means a public agency that by law can plan, design, and build a transportation project and has been so designated by the district.
- (5) "Regional transportation investment district" or "district" means a municipal corporation (~~whose boundaries are coextensive with two or more contiguous counties and~~) that has been created by county legislative authorities and a vote of the people under this chapter to implement a regional transportation investment plan.

(6) "Regional transportation investment district planning committee" or "planning committee" means the advisory committee created under RCW 36.120.030 to create and propose to county legislative authorities a regional transportation investment plan to develop, finance, and construct transportation projects.

(7) "Regional transportation investment plan" or "plan" means a plan to develop, construct, and finance a transportation project or projects.

(8) "Transportation project" means:

(a) A capital improvement or improvements to a highway that has been designated, in whole or in part, as a highway of statewide significance, including an extension, that:

(i) Adds a lane or new lanes to an existing state or federal highway; or

(ii) Repairs or replaces a lane or lanes damaged by an event declared an emergency by the governor before January 1, 2002.

(b) A capital improvement or improvements to all or a portion of a highway of statewide significance, including an extension, and may include the following associated multimodal capital improvements:

(i) Approaches to highways of statewide significance;

(ii) High-occupancy vehicle lanes;

(iii) Flyover ramps;

(iv) Park and ride lots;

(v) Bus pullouts;

(vi) Vans for vanpools;

(vii) Buses; and

(viii) Signalization, ramp metering, and other transportation system management improvements.

(c) A capital improvement or improvements to all or a portion of a city street, county road, or existing highway or the creation of a new highway that intersects with a highway of statewide significance, if all of the following conditions are met:

(i) The project is included in a plan that makes highway improvement projects that add capacity to a highway or highways of statewide significance;

(ii) The secretary of transportation determines that the project would better relieve traffic congestion than investing that same money in adding capacity to a highway of statewide significance;

(iii) Matching money equal to (~~one-third~~) fifteen percent of the total cost of the project is provided by local entities, including but not limited to a metropolitan planning organization, county, city, port, or private entity in which a county participating in a plan is located. Local entities may use federal grants to meet this matching requirement;

(iv) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed ten percent of the revenues generated by the district;

(v) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed one billion dollars; and

(vi) The specific projects are included within the plan and submitted as part of the plan to a vote of the people.

(d) Except as otherwise provided in this subsection, operations, preservation, and maintenance are excluded from this definition and may not be included in a regional transportation investment plan. However, operations, preservation, and maintenance of tolled facilities where toll revenues have been pledged for the payment of contracts is expressly authorized and may be included in a regional transportation investment plan. The authority under this subsection includes operational expenses for toll enforcement.

(e) Operational expenses for traffic mitigation provided solely for transportation project construction mitigation directly related to specific projects as outlined in the plan shall be included in a regional transportation investment plan. Construction mitigation strategies may include, but are not limited to, funding for increased transit service hours, trip reduction incentives, nonmotorized mode support, and ridematching services. Prior to construction of any project, corridor mitigation plans must be developed in conjunction with the department and partner transit agencies, including local transit agencies and the regional transit authority serving the counties, with the following goals: (i) Reducing drive alone trips in affected corridors; (ii) reducing delay per person and delay per unit of goods in affected corridors; and (iii) improving levels of service that improve system performance for all transportation users in affected corridors. The regional transportation commission established under section 2 of this act, or a successor regional governing entity, shall review transit investments according to these performance measures to determine whether to continue funding for successful and effective operations after the construction period is completed.

(9) "Weighted vote" means a vote that reflects the population each board or planning committee member represents relative to the population represented by the total membership of the board or planning committee. Population will be determined using the federal 2000 census or subsequent federal census data.

**Sec. 5.** RCW 36.120.030 and 2002 c 56 s 103 are each amended to read as follows:

Regional transportation investment district planning committees are advisory entities that are created, convened, and empowered as follows:

(1) A county with a population over one million five hundred thousand persons and any adjoining counties with a population over five hundred thousand persons may create a regional transportation investment district and shall convene a regional transportation investment district planning committee.

(a) The boundaries of the district should include at least the contiguous areas within the regional transit authority serving the counties. The boundaries must be proposed by the planning committee and approved by the county legislative authorities by ordinance before or in conjunction with approval of a regional transportation investment plan. Boundaries must follow complete parcels of land. However, any portion of a county that is located on a peninsula shall be exempt from a regional transportation investment district in which more than one county is included if (i) the portion of the county located on the peninsula is connected to the other portion of the county by a bridge improved under chapter 47.46 RCW, and (ii) the county has a national park and a population of more than five hundred thousand persons, but less than one million five hundred thousand persons.

(b) After voters within the district boundaries have approved a plan under RCW 36.120.070, elections to add areas to the district boundaries may be called by a resolution of the board, after consultation with the regional transportation planning organization and affected transit agencies and with the concurrence of the legislative authority of the city or town if the area is incorporated or with the concurrence of the county legislative authority if the area is unincorporated. The election may include a single ballot measure providing annexation to the district, approval of the plan, and approval of revenue sources necessary to finance the plan. The electorate are the voters voting within the proposed area to be annexed. A simple majority of the persons voting on the single ballot measure is required for approval of the measure.

(2) The members of the legislative authorities participating in planning under this chapter shall serve as the district planning committee. Members of the planning committee receive no compensation, but may be reimbursed for travel and incidental expenses as the planning committee deems appropriate.

The secretary of transportation, or the appropriate regional administrator of the department, as named by the secretary, shall serve on the committee as a nonvoting member.

(3) A regional transportation investment district planning committee may be entitled to state funding, as appropriated by the legislature, for start-up funding to pay for salaries, expenses, overhead, supplies, and similar expenses ordinarily and necessarily incurred in selecting transportation projects and funding for those transportation projects under this chapter. Upon creation of a regional transportation investment district, the district shall within one year reimburse the state for any sums advanced for these start-up costs from the state.

(4) The planning committee shall conduct its affairs and formulate a regional transportation investment plan as provided under RCW 36.120.040, except that it shall elect an executive board of seven members to discharge the duties of the planning committee and formulate a regional transportation investment plan, subject to the approval of the full committee.

(5) At its first meeting, a regional transportation investment district planning committee may elect officers and provide for the adoption of rules and other operating procedures.

(6) Governance of and decisions by a regional transportation investment district planning committee must be by a sixty-percent weighted majority vote of the total membership.

(7) The planning committee may dissolve itself at any time by a two-thirds weighted majority vote of the total membership of the planning committee.

(8) If a multicounty regional transportation investment district is not formed by December 1, 2007, through approval by the voters voting on a regional transportation investment plan, then the authority under this chapter to create a district, and to fund and construct transportation projects, shall be available to each of the eligible counties described in subsection (1) of this section on an individual and independent basis.

**Sec. 6.** RCW 36.120.040 and 2003 c 194 s 1 are each amended to read as follows:

(1) A regional transportation investment district planning committee shall adopt a regional transportation investment plan providing for the development,

construction, and financing of transportation projects. The planning committee may consider the following factors in formulating its plan:

(a) Land use planning criteria;

(b) The input of cities located within a participating county; and

(c) The input of regional transportation planning organizations ~~((#))~~ of which a participating county is ~~(located)~~ a member. A regional transportation planning organization in which a participating county is located shall review its adopted regional transportation plan and submit, for the planning committee's consideration, its list of transportation improvement priorities.

(2) The planning committee may coordinate its activities with the department, which shall provide services, data, and personnel to assist in this planning as desired by the planning committee. In addition, the planning committee may coordinate its activities with affected cities, towns, and other local governments, including any regional transit authority existing within the participating counties' boundaries, that engage in transportation planning.

(3) The planning committee shall:

(a) Conduct public meetings that are needed to assure active public participation in the development of the plan;

(b) Adopt a plan proposing the:

(i) Creation of a regional transportation investment district, including district boundaries; and

(ii) Construction of transportation projects to improve mobility within each county and within the region. Operations, maintenance, and preservation of facilities or systems may not be part of the plan, except for the limited purposes provided under RCW 36.120.020(8); and

(c) Recommend sources of revenue authorized by RCW 36.120.050 and a financing plan to fund selected transportation projects. The overall plan of the district must leverage the district's financial contributions so that the federal, state, local, and other revenue sources continue to fund major congestion relief and transportation capacity improvement projects in each county and the district. A combination of local, state, and federal revenues may be necessary to pay for transportation projects, and the planning committee shall consider all of these revenue sources in developing a plan.

(4) The plan must use tax revenues and related debt for projects that generally benefit a participating county in proportion to the general level of tax revenues generated within that participating county. This equity principle applies to all modifications to the plan, appropriation of contingency funds not identified within the project estimate, and future phases of the plan. Per agreement with a regional transit authority serving the counties participating in a district, the equity principle identified under this subsection may include using the combined district and regional transit authority revenues generated within a participating county to determine the distribution that proportionally benefits the county. For purposes of the transportation subarea equity principle established under this subsection, a district may use the five subareas within a regional transit authority's boundaries as identified in an authority's system plan adopted in May 1996. During implementation of the plan, the board shall retain the flexibility to manage distribution of revenues, debt, and project schedules so that the district may effectively implement the plan. Nothing in this section should



be interpreted to prevent the district from pledging district-wide tax revenues for payment of any contract or debt entered into under RCW 36.120.130.

(5) Before adopting the plan, the planning committee, with assistance from the department, shall work with the lead agency to develop accurate cost forecasts for transportation projects. This project costing methodology must be integrated with revenue forecasts in developing the plan and must at a minimum include estimated project costs in constant dollars as well as year of expenditure dollars, the range of project costs reflected by the level of project design, project contingencies, identification of mitigation costs, the range of revenue forecasts, and project and plan cash flow and bond analysis. The plan submitted to the voters must provide cost estimates for each project, including reasonable contingency costs. Plans submitted to the voters must provide that the maximum amount possible of the funds raised will be used to fund projects in the plan, including environmental improvements and mitigation, and that administrative costs be minimized. If actual revenue exceeds actual plan costs, the excess revenues must be used to retire any outstanding debt associated with the plan.

(6) If a county opts not to adopt the plan or participate in the regional transportation investment district, but two or more contiguous counties do choose to continue to participate, then the planning committee may, within ninety days, redefine the regional transportation investment plan and the ballot measure to be submitted to the people to reflect elimination of the county, and submit the redefined plan to the legislative authorities of the remaining counties for their decision as to whether to continue to adopt the redefined plan and participate. This action must be completed within sixty days after receipt of the redefined plan.

(7) Once adopted by the planning committee, the plan must be forwarded to the participating county legislative authorities to initiate the election process under RCW 36.120.070. The planning committee shall at the same time provide notice to each city and town within the district, the governor, the chairs of the transportation committees of the legislature, the secretary of transportation, and each legislator whose legislative district is partially or wholly within the boundaries of the district.

(8) If the ballot measure is not approved, the planning committee may redefine the selected transportation projects, financing plan, and the ballot measure. The county legislative authorities may approve the new plan and ballot measure, and may then submit the revised proposition to the voters at the next election or a special election. If no ballot measure is approved by the voters by the third vote, the planning committee is dissolved.

**NEW SECTION. Sec. 7.** A new section is added to chapter 36.120 RCW to read as follows:

The planning committee must develop and include in the regional transportation investment plan a funding proposal for the state route number 520 bridge replacement and HOV project that assures full project funding for seismic safety and corridor connectivity on state route number 520 between Interstate 5 and Interstate 405.

**Sec. 8.** RCW 36.120.070 and 2002 c 56 s 107 are each amended to read as follows:

(1) Beginning no sooner than the 2007 general election, two or more contiguous county legislative authorities, or a single county legislative authority as provided under RCW 36.120.030(8), upon receipt of the regional transportation investment plan under RCW 36.120.040, may ~~((certify the plan to the ballot, including identification of the tax options))~~ submit to the voters of the proposed district a single ballot measure that approves formation of the district, approves the regional transportation investment plan, and approves the revenue sources necessary to ~~((fund))~~ finance the plan. ~~((County legislative authorities))~~ For a county to participate in the plan, the county legislative authority shall, within ninety days after receiving the plan, adopt an ordinance indicating the county's participation. The planning committee may draft ~~((a ballot title,))~~ the ballot measure on behalf of the county legislative authorities, and the county legislative authorities may give notice as required by law for ballot measures, and perform other duties as required to ~~((put the plan before))~~ submit the measure to the voters of the proposed district for their approval or rejection ~~((as a single ballot measure that both approves formation of the district and approves the plan))~~. Counties may negotiate interlocal agreements necessary to implement the plan. The electorate will be the voters voting within the boundaries of the ~~((participating counties))~~ proposed district. A simple majority of the total persons voting on the single ballot measure ~~((to approve the plan, establish the district, and approve the taxes and fees))~~ is required for approval.

(2) In conjunction with RCW 81.112.030(10), at the 2007 general election the participating counties shall submit a regional transportation investment plan on the same ballot along with a proposition to support additional implementation phases of the authority's system and financing plan developed under chapter 81.112 RCW. The plan shall not be considered approved unless voters also approve the proposition to support additional implementation phases of the authority's system and financing plan.

**Sec. 9.** RCW 29A.36.071 and 2004 c 271 s 169 are each amended to read as follows:

(1) Except as provided to the contrary in RCW 82.14.036, 82.46.021, or 82.80.090, the ballot title of any referendum filed on an enactment or portion of an enactment of a local government and any other question submitted to the voters of a local government consists of three elements: (a) An identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; and (c) a question. The ballot title must conform with the requirements and be displayed substantially as provided under RCW 29A.72.050, except that the concise description must not exceed seventy-five words; however, a concise description submitted on behalf of a proposed or existing regional transportation investment district may exceed seventy-five words. If the local governmental unit is a city or a town, the concise statement shall be prepared by the city or town attorney. If the local governmental unit is a county, the concise statement shall be prepared by the prosecuting attorney of the county. If the unit is a unit of local government other than a city, town, or county, the concise statement shall be prepared by the prosecuting attorney of the county within which the majority area of the unit is located.

(2) A referendum measure on the enactment of a unit of local government shall be advertised in the manner provided for nominees for elective office.

(3) Subsection (1) of this section does not apply if another provision of law specifies the ballot title for a specific type of ballot question or proposition.

**Sec. 10.** RCW 36.120.080 and 2002 c 56 s 108 are each amended to read as follows:

If the voters approve the plan, including creation of a regional transportation investment district and imposition of taxes and fees, the district will be declared formed. The county election officials of participating counties shall, within fifteen days of the final certification of the election results, publish a notice in a newspaper or newspapers of general circulation in the district declaring the district formed, and mail copies of the notice to the governor, the secretary of transportation, the executive director of the regional transit authority in which any part of the district is located, and the executive director of the regional transportation planning organization in which any part of the district is located. A party challenging the procedure or the formation of a voter-approved district must file the challenge in writing by serving the prosecuting attorney of the participating counties and the attorney general within thirty days after the final certification of the election. Failure to challenge within that time forever bars further challenge of the district's valid formation.

**Sec. 11.** RCW 36.120.110 and 2002 c 56 s 111 are each amended to read as follows:

(1) The governing board of the district is responsible for the execution of the voter-approved plan. The board shall:

- (a) Impose taxes and fees authorized by district voters;
- (b) Enter into agreements with state, local, and regional agencies and departments as necessary to accomplish district purposes and protect the district's investment in transportation projects;
- (c) Accept gifts, grants, or other contributions of funds that will support the purposes and programs of the district;
- (d) Monitor and audit the progress and execution of transportation projects to protect the investment of the public and annually make public its findings;
- (e) Pay for services and enter into leases and contracts, including professional service contracts;
- (f) Hire no more than ten employees, including a director or executive officer, a treasurer or financial officer, a project manager or engineer, a project permit coordinator, and clerical staff; and
- (g) Coordinate its activities with affected cities, towns, and other local governments, including any regional transit authority existing either partially or entirely within the district area, that engage in transportation planning; and
- (h) Exercise other powers and duties as may be reasonable to carry out the purposes of the district.

(2) It is the intent of the legislature that existing staff resources of lead agencies be used in implementing this chapter. A district may coordinate its activities with the department, which shall provide services, data, and personnel to assist as desired by the regional transportation investment district. Lead agencies for transportation projects that are not state facilities shall also provide staff support for the board.

(3) A district may not acquire, hold, or dispose of real property.

(4) Except for the limited purposes provided under RCW 36.120.020(8), a district may not own, operate, or maintain an ongoing facility, road, or transportation system.

(5) A district may accept and expend or use gifts, grants, or donations.

(6) It is the intent of the legislature that administrative and overhead costs of a regional transportation investment district be minimized. For transportation projects costing up to fifty million dollars, administrative and overhead costs may not exceed three percent of the total construction and design project costs per year. For transportation projects costing more than fifty million dollars, administrative and overhead costs may not exceed three percent of the first fifty million dollars in costs, plus an additional one-tenth of one percent of each additional dollar above fifty million. These limitations apply only to the district, and do not limit the administration or expenditures of the department.

(7) A district may use the design-build procedure for transportation projects developed by it. As used in this section "design-build procedure" means a method of contracting under which the district contracts with another party for that party to both design and build the structures, facilities, and other items specified in the contract. The requirements and limitations of RCW 47.20.780 and 47.20.785 do not apply to the transportation projects under this chapter.

**Sec. 12.** RCW 81.112.030 and 1994 c 44 s 1 are each amended to read as follows:

Two or more contiguous counties each having a population of four hundred thousand persons or more may establish a regional transit authority to develop and operate a high capacity transportation system as defined in chapter 81.104 RCW.

The authority shall be formed in the following manner:

(1) The joint regional policy committee created pursuant to RCW 81.104.040 shall adopt a system and financing plan, including the definition of the service area. This action shall be completed by September 1, 1992, contingent upon satisfactory completion of the planning process defined in RCW 81.104.100. The final system plan shall be adopted no later than June 30, 1993. In addition to the requirements of RCW 81.104.100, the plan for the proposed system shall provide explicitly for a minimum portion of new tax revenues to be allocated to local transit agencies for interim express services. Upon adoption the joint regional policy committee shall immediately transmit the plan to the county legislative authorities within the adopted service area.

(2) The legislative authorities of the counties within the service area shall decide by resolution whether to participate in the authority. This action shall be completed within forty-five days following receipt of the adopted plan or by August 13, 1993, whichever comes first.

(3) Each county that chooses to participate in the authority shall appoint its board members as set forth in RCW 81.112.040 and shall submit its list of members to the secretary of the Washington state department of transportation. These actions must be completed within thirty days following each county's decision to participate in the authority.

(4) The secretary shall call the first meeting of the authority, to be held within thirty days following receipt of the appointments. At its first meeting, the authority shall elect officers and provide for the adoption of rules and other operating procedures.

(5) The authority is formally constituted at its first meeting and the board shall begin taking steps toward implementation of the system and financing plan adopted by the joint regional policy committee. If the joint regional policy committee fails to adopt a plan by June 30, 1993, the authority shall proceed to do so based on the work completed by that date by the joint regional policy committee. Upon formation of the authority, the joint regional policy committee shall cease to exist. The authority may make minor modifications to the plan as deemed necessary and shall at a minimum review local transit agencies' plans to ensure feeder service/high capacity transit service integration, ensure fare integration, and ensure avoidance of parallel competitive services. The authority shall also conduct a minimum thirty-day public comment period.

(6) If the authority determines that major modifications to the plan are necessary before the initial ballot proposition is submitted to the voters, the authority may make those modifications with a favorable vote of two-thirds of the entire membership. Any such modification shall be subject to the review process set forth in RCW 81.104.110. The modified plan shall be transmitted to the legislative authorities of the participating counties. The legislative authorities shall have forty-five days following receipt to act by motion or ordinance to confirm or rescind their continued participation in the authority.

(7) If any county opts to not participate in the authority, but two or more contiguous counties do choose to continue to participate, the authority's board shall be revised accordingly. The authority shall, within forty-five days, redefine the system and financing plan to reflect elimination of one or more counties, and submit the redefined plan to the legislative authorities of the remaining counties for their decision as to whether to continue to participate. This action shall be completed within forty-five days following receipt of the redefined plan.

(8) The authority shall place on the ballot within two years of the authority's formation, a single ballot proposition to authorize the imposition of taxes to support the implementation of an appropriate phase of the plan within its service area. In addition to the system plan requirements contained in RCW 81.104.100(2)(d), the system plan approved by the authority's board before the submittal of a proposition to the voters shall contain an equity element which:

(a) Identifies revenues anticipated to be generated by corridor and by county within the authority's boundaries;

(b) Identifies the phasing of construction and operation of high capacity system facilities, services, and benefits in each corridor. Phasing decisions should give priority to jurisdictions which have adopted transit-supportive land use plans; and

(c) Identifies the degree to which revenues generated within each county will benefit the residents of that county, and identifies when such benefits will accrue.

A simple majority of those voting within the boundaries of the authority is required for approval. If the vote is affirmative, the authority shall begin implementation of the projects identified in the proposition. However, the authority may not submit any authorizing proposition for voter-approved taxes prior to July 1, 1993; nor may the authority issue bonds or form any local improvement district prior to July 1, 1993.

(9) If the vote on a proposition fails, the board may redefine the proposition, make changes to the authority boundaries, and make corresponding changes to

the composition of the board. If the composition of the board is changed, the participating counties shall revise the membership of the board accordingly. The board may then submit the revised proposition or a different proposition to the voters. No single proposition may be submitted to the voters more than twice. Beginning no sooner than the 2007 general election, the authority may place additional propositions on the ballot to impose taxes to support additional phases of plan implementation.

(10) In conjunction with RCW 36.120.070, at the 2007 general election the authority shall submit a proposition to support additional implementation phases of the authority's system and financing plan on the same ballot along with a regional transportation investment plan developed under chapter 36.120 RCW. The proposition shall not be considered approved unless voters also approve the regional transportation investment plan.

(11) Additional phases of plan implementation may include a transportation subarea equity element which (a) identifies the combined authority and regional transportation investment district revenues anticipated to be generated by corridor and by county within the authority's boundaries, and (b) identifies the degree to which the combined authority and regional transportation investment district revenues generated within each county will benefit the residents of that county, and identifies when such benefits will accrue. For purposes of the transportation subarea equity principle established under this subsection, the authority may use the five subareas within the authority's boundaries as identified in the authority's system plan adopted in May 1996.

(12) If the authority is unable to achieve a positive vote on a proposition within two years from the date of the first election on a proposition, the board may, by resolution, reconstitute the authority as a single-county body. With a two-thirds vote of the entire membership of the voting members, the board may also dissolve the authority.

**Sec. 13.** RCW 36.120.050 and 2003 c 350 s 4 are each amended to read as follows:

(1) A regional transportation investment district planning committee may, as part of a regional transportation investment plan, recommend the imposition or authorization of some or all of the following revenue sources, which a regional transportation investment district may impose or authorize upon approval of the voters as provided in this chapter:

(a) A regional sales and use tax, as specified in RCW 82.14.430, of up to ~~((0.5))~~ 0.1 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, upon the occurrence of any taxable event in the regional transportation investment district;

(b) A local option vehicle license fee, as specified under RCW 82.80.100, of up to one hundred dollars per vehicle registered in the district. As used in this subsection, "vehicle" means motor vehicle as defined in RCW 46.04.320. Certain classes of vehicles, as defined under chapter 46.04 RCW, may be exempted from this fee;

(c) A parking tax under RCW 82.80.030;

(d) A local motor vehicle excise tax under RCW 81.100.060 ~~((and chapter 81.104 RCW));~~

(e) A local option fuel tax under RCW 82.80.120;

(f) An employer excise tax under RCW 81.100.030; and

(g) Vehicle tolls on new or reconstructed (~~(facilities-)~~) local or regional arterials or state or federal highways within the boundaries of the district, if the following conditions are met:

(i) Any such toll must be approved by the state transportation commission or its successor statewide tolling authority;

(ii) The regional transportation investment plan must identify the facilities that may be tolled; and

(iii) Unless otherwise specified by law, the department shall administer the collection of vehicle tolls on designated facilities, and the state transportation commission, or its successor, shall be the tolling authority.

(2) Taxes, fees, and tolls may not be imposed or authorized without an affirmative vote of the majority of the voters within the boundaries of the district voting on a ballot proposition as set forth in RCW 36.120.070. Revenues from these taxes and fees may be used only to implement the plan as set forth in this chapter. A district may contract with the state department of revenue or other appropriate entities for administration and collection of any of the taxes or fees authorized in this section.

(3) Existing statewide motor vehicle fuel and special fuel taxes, at the distribution rates in effect on January 1, 2001, are not intended to be altered by this chapter.

**Sec. 14.** RCW 81.100.080 and 1990 c 43 s 19 are each amended to read as follows:

(1) Funds collected under RCW 81.100.030 or 81.100.060 and any investment earnings accruing thereon shall be used by the county or the regional transportation investment district in a manner consistent with the regional transportation plan only for costs of collection, costs of preparing, adopting, and enforcing agreements under RCW 81.100.030(3), for construction of high occupancy vehicle lanes and related facilities, mitigation of environmental concerns that result from construction or use of high occupancy vehicle lanes and related facilities, payment of principal and interest on bonds issued for the purposes of this section, for high occupancy vehicle programs as defined in RCW 81.100.020(5), (~~and~~) or for commuter rail projects in accordance with RCW 81.104.120. Except for funds raised by an investment district, no funds collected under RCW 81.100.030 or 81.100.060 after June 30, 2000, may be pledged for the payment or security of the principal or interest on any bonds issued for the purposes of this section. Not more than ten percent of the funds may be used for transit agency high occupancy vehicle programs.

(2) Notwithstanding the limitations in this chapter, a regional transportation investment district may use funds collected under RCW 81.100.030 or 81.100.060 and any investment earnings accruing thereon for projects contained in a plan developed under chapter 36.120 RCW. These expenditures shall not be limited to high occupancy vehicle systems.

(3) Priorities for construction of high occupancy vehicle lanes and related facilities shall be as follows:

~~((+))~~(a)(i) To accelerate construction of high occupancy vehicle lanes on the interstate highway system, as well as related facilities;

~~((+))~~ (ii) To finance or accelerate construction of high occupancy vehicle lanes on the noninterstate state highway system, as well as related facilities.

~~((2))~~ (b) To finance construction of high occupancy vehicle lanes on local arterials, as well as related facilities.

(4) Moneys received by ~~((an agency))~~ a county under this chapter shall be used in addition to, and not as a substitute for, moneys currently used by the ~~((agency))~~ county for the purposes specified in this section.

(5) Counties and investment districts may contract with cities or the state department of transportation for construction of high occupancy vehicle lanes and related facilities, and may issue general obligation bonds to fund such construction and use funds received under this chapter to pay the principal and interest on such bonds.

**Sec. 15.** RCW 81.100.060 and 2002 c 56 s 411 are each amended to read as follows:

A county with a population of one million or more and a county with a population of from two hundred ten thousand to less than one million that is adjoining a county with a population of one million or more, having within their boundaries existing or planned high-occupancy vehicle lanes on the state highway system, or a regional transportation investment district ~~((for capital improvements))~~, but only to the extent that the surcharge has not already been imposed by the county, may, with voter approval, impose a local surcharge of not more than three-tenths of one percent in the case of a county, or eight-tenths of one percent in the case of a regional transportation investment district, of the value on vehicles registered to a person residing within the county or investment district and not more than 13.64 percent on the state sales and use taxes paid under the rate in RCW 82.08.020(2) on retail car rentals within the county or investment district. A county may impose the surcharge only to the extent that it has not been imposed by the district. No surcharge may be imposed on vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.085, or 46.16.090.

Counties or investment districts imposing a ~~((tax))~~ surcharge under this section shall contract, before the effective date of the resolution or ordinance imposing a surcharge, administration and collection to the state department of licensing, and department of revenue, as appropriate, which shall deduct ~~((an))~~ a percentage amount, as provided by contract, not to exceed two percent of the taxes, for administration and collection expenses incurred by the department. All administrative provisions in chapters 82.03, 82.32, and 82.44 RCW shall, insofar as they are applicable to motor vehicle excise taxes, be applicable to surcharges imposed under this section. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW shall, insofar as they are applicable to state sales and use taxes, be applicable to surcharges imposed under this section. A surcharge imposed under this section, or a change to the surcharge, shall take effect no sooner than seventy-five days after the department of licensing or the department of revenue receives notice of the surcharge or change to the surcharge, and shall take effect only on the first day of January, April, July, or October. Unless waived by the department of licensing or the department of revenue, notice includes providing the appropriate department with digital mapping and legal descriptions of areas in which the tax will be collected.

If the tax authorized in RCW 81.100.030 is also imposed, the total proceeds from tax sources imposed under this section and RCW 81.100.030 each year



shall not exceed the maximum amount which could be collected under this section.

**Sec. 16.** RCW 82.14.0455 and 2005 c 336 s 15 are each amended to read as follows:

(1) Subject to the provisions in RCW 36.73.065, a transportation benefit district under chapter 36.73 RCW may fix and impose a sales and use tax in accordance with the terms of this chapter. The tax authorized in this section is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the boundaries of the district. The rate of tax shall not exceed two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. The tax may not be imposed for a period exceeding ten years. This tax may be extended for a period not exceeding ten years with an affirmative vote of the voters voting at the election.

(2) Money received from the tax imposed under this section must be spent in accordance with the requirements of chapter 36.73 RCW.

~~((3) A district may only levy the tax under this section if the district is comprised of boundaries coextensive with the boundaries of a county, counties, city or cities, a county transportation authority or authorities, a public transportation benefit area or areas, or any combination of these jurisdictions.))~~

**Sec. 17.** RCW 82.14.430 and 2002 c 56 s 405 are each amended to read as follows:

(1) If approved by the majority of the voters within its boundaries voting on the ballot proposition, a regional transportation investment district may impose a sales and use tax of up to ~~((0.5))~~ 0.1 percent of the selling price or value of the article used in the case of a use tax. The tax authorized by this section is in addition to the tax authorized by RCW 82.14.030 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 taxing district. Motor vehicles are exempt from the sales and use tax imposed under this subsection.

(2) If approved by the majority of the voters within its boundaries voting on the ballot proposition, a regional transportation investment district may impose a tax on the use of a motor vehicle within a regional transportation investment district. The tax applies to those persons who reside within the regional transportation investment district. The rate of the tax may not exceed ~~((0.5))~~ 0.1 percent of the value of the motor vehicle. The tax authorized by this subsection is in addition to the tax authorized under RCW 82.14.030 and must be imposed and collected at the time a taxable event under RCW 82.08.020(1) or 82.12.020 takes place. All revenue received under this subsection must be deposited in the local sales and use tax account and distributed to the regional transportation investment district according to RCW 82.14.050. The following provisions apply to the use tax in this subsection:

(a) Where persons are taxable under chapter 82.08 RCW, the seller shall collect the use tax from the buyer using the collection provisions of RCW 82.08.050.

(b) Where persons are taxable under chapter 82.12 RCW, the use tax must be collected using the provisions of RCW 82.12.045.

(c) "Motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(d) "Person" has the meaning given in RCW 82.04.030.

(e) The value of a motor vehicle must be determined under RCW 82.12.010.

(f) Except as specifically stated in this subsection (2), chapters 82.12 and 82.32 RCW apply to the use tax. The use tax is a local tax imposed under the authority of chapter 82.14 RCW, and chapter 82.14 RCW applies fully to the use tax.

(3) In addition to fulfilling the notice requirements under RCW 82.14.055(1), and unless waived by the department, a regional transportation investment district shall provide the department of revenue with digital mapping and legal descriptions of areas in which the tax will be collected.

**Sec. 18.** RCW 82.80.120 and 2003 c 350 s 3 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030;

(c) "District" means a regional transportation investment district under chapter 36.120 RCW.

(2) A regional transportation investment district under chapter 36.120 RCW, subject to the conditions of this section, may levy additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the district. The additional excise tax is subject to the approval of a majority of the voters within the district boundaries. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the district's fuel excise tax. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed tax may not be levied less than one month from the date the election results are certified. The commencement date for the levy of any tax under this section will be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of the district to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a district shall contract with the department of ~~((revenue))~~ licensing for the administration and collection of the taxes. The contract must provide that a

percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of ~~((revenue))~~ licensing may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer shall distribute monthly to the district levying the tax as part of the regional transportation investment district plan, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b).

(8) The proceeds of the additional taxes levied by a district in this section, to be used as a part of a regional transportation investment district plan, must be used in accordance with chapter 36.120 RCW, but only for those areas that are considered "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(9) A district may only levy the tax under this section if the district is comprised of boundaries identical to the boundaries of a county or counties. A district may not levy the tax in this section if a member county is levying the tax in RCW 82.80.010 or 82.80.110.

**Sec. 19.** RCW 47.56.076 and 2005 c 335 s 3 are each amended to read as follows:

Upon approval of a majority of the voters within its boundaries voting on the ballot proposition, and ~~((only for the purposes authorized in RCW 36.120.050(1)(g)))~~ with the approval of the state transportation commission or its successor statewide tolling authority, a regional transportation investment district may authorize vehicle tolls on a local or regional arterial or a state (routes where improvements financed in whole or in part by a regional transportation investment district add additional lanes to, or reconstruct lanes on, a highway of statewide significance) or federal highway within the boundaries of the district. The department shall administer the collection of vehicle tolls authorized on designated facilities unless otherwise specified in law or by contract, and the ~~((state transportation))~~ commission(;) or its successor(;) statewide tolling authority shall ((be the tolling authority)) set and impose the tolls in amounts sufficient to implement the regional transportation investment plan under RCW 36.120.020.

**NEW SECTION. Sec. 20.** A new section is added to chapter 47.56 RCW to read as follows:

Notwithstanding any provision to the contrary in this chapter, a regional transportation investment district may authorize vehicle tolls on either Lake Washington bridge within its boundaries to implement a regional transportation investment plan as authorized in chapter 36.120 RCW and RCW 47.56.076.

**Sec. 21.** RCW 43.79A.040 and 2005 c 424 s 18, 2005 c 402 s 8, 2005 c 215 s 10, and 2005 c 16 s 2 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), and the life sciences discovery fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 22.** RCW 43.84.092 and 2005 c 514 s 1105, 2005 c 353 s 3, 2005 c 339 s 22, 2005 c 314 s 109, 2005 c 312 s 7, and 2005 c 94 s 1 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy

toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the Puyallup tribal settlement account, the real estate appraiser commission account, ~~((the regional transportation investment district account,))~~ the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the

pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 23.** RCW 43.84.092 and 2005 c 514 s 1106, 2005 c 353 s 4, 2005 c 339 s 23, 2005 c 314 s 110, 2005 c 312 s 8, and 2005 c 94 s 2 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the

department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, ~~((the regional transportation investment district account,))~~ the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent



common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 24.** RCW 36.73.015 and 2005 c 336 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) "District" means a transportation benefit district created under this chapter.

(2) "City" means a city or town.

(3) "Transportation improvement" means a project contained in the transportation plan of the state or a regional transportation planning organization (~~((that is of statewide or regional significance))~~). A project may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high-capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs. (~~((Not more than forty percent of the revenues generated by a district may be expended on city streets, county roads, existing highways other than highways of statewide significance, and the creation of a new highway that intersects with a highway of statewide significance.))~~)

**Sec. 25.** RCW 36.73.020 and 2005 c 336 s 3 are each amended to read as follows:

(1) The legislative authority of a county or city may establish a transportation benefit district within the county or city area or within the area specified in subsection (2) of this section, for the purpose of acquiring, constructing, improving, providing, and funding a transportation improvement

within the district that is consistent with any existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels. The transportation improvements shall be owned by the county of jurisdiction if located in an unincorporated area, by the city of jurisdiction if located in an incorporated area, or by the state in cases where the transportation improvement is or becomes a state highway. However, if deemed appropriate by the governing body of the transportation benefit district, a transportation improvement may be owned by a participating port district or transit district, unless otherwise prohibited by law. Transportation improvements shall be administered and maintained as other public streets, roads, highways, and transportation improvements. To the extent practicable, the district shall consider the following criteria when selecting transportation improvements:

- (a) Reduced risk of transportation facility failure and improved safety;
- (b) Improved travel time;
- (c) Improved air quality;
- (d) Increases in daily and peak period trip capacity;
- (e) Improved modal connectivity;
- (f) Improved freight mobility;
- (g) Cost-effectiveness of the investment;
- (h) Optimal performance of the system through time; and
- (i) Other criteria, as adopted by the governing body.

(2) Subject to subsection (6) of this section, the district may include area within more than one county, city, port district, county transportation authority, or public transportation benefit area, if the legislative authority of each participating jurisdiction has agreed to the inclusion as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. However, the boundaries of the district (~~shall~~) need not include all territory within the boundaries of the participating jurisdictions comprising the district.

(3) The members of the legislative authority proposing to establish the district, acting ex officio and independently, shall constitute the governing body of the district: PROVIDED, That where a district includes area within more than one jurisdiction under subsection (2) of this section, the district shall be governed under an interlocal agreement adopted pursuant to chapter 39.34 RCW. However, the governing body shall be composed of at least five members including at least one elected official from the legislative authority of each participating jurisdiction.

(4) The treasurer of the jurisdiction proposing to establish the district shall act as the ex officio treasurer of the district, unless an interlocal agreement states otherwise.

(5) The electors of the district shall all be registered voters residing within the district.

(6) Prior to December 1, 2007, the authority under this section, regarding the establishment of or the participation in a district, shall not apply to:

(a) Counties with a population greater than one million five hundred thousand persons and any adjoining counties with a population greater than five hundred thousand persons;

(b) Cities with any area within the counties under (a) of this subsection; and

(c) Other jurisdictions with any area within the counties under (a) of this subsection.

**NEW SECTION, Sec. 26.** A new section is added to chapter 47.01 RCW to read as follows:

The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route number 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

**NEW SECTION, Sec. 27.** A new section is added to chapter 47.01 RCW to read as follows:

(1) Prior to commencing construction on either project, the department of transportation must complete all of the following requirements for both the Alaskan Way viaduct and Seattle Seawall replacement project, and the state route number 520 bridge replacement and HOV project: (a) In accordance with the national environmental policy act, the department must designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate review using the department's cost estimate validation process, for each project; (b) in accordance with all applicable federal highway administration planning and project management requirements, the department must prepare a project finance plan for each project that clearly identifies secured and anticipated fund sources, cash flow timing requirements, and project staging and phasing plans if applicable; and (c) the department must report these results for each project to the joint transportation committee.

(2) The requirements of this section shall not apply to (a) utility relocation work, and related activities, on the Alaskan Way viaduct and Seattle Seawall replacement project and (b) off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

**NEW SECTION, Sec. 28.** A new section is added to chapter 47.01 RCW to read as follows:

The legislature recognizes that the finance and project implementation planning processes required for the Alaskan Way viaduct and Seattle Seawall replacement project and the state route number 520 bridge replacement and HOV project cannot guarantee appropriate decisions unless key study assumptions are reasonable with respect to each project.

To assure appropriate finance plan and project implementation plan assumptions, an expert review panel shall be appointed to provide independent financial and technical review for development of a finance plan and project implementation plan for the projects described in this section.

(1) The expert review panel shall consist of five to ten members who are recognized experts in relevant fields, such as planning, engineering, finance, law, the environment, emerging transportation technologies, geography, and economics.

(2) The expert review panel shall be selected cooperatively by the chairs of the senate and house transportation committees, the secretary of the department of transportation, and the governor to assure a balance of disciplines.

(3) The chair of the expert review panel shall be designated by the governor.

(4) The expert review panel shall, with respect to completion of the project alternatives as described in the draft environmental impact statement of each project:

(a) Review the finance plan for the project to ensure that it clearly identifies secured and anticipated funding sources and is feasible and sufficient;

(b) Review the project implementation plan covering all state and local permitting and mitigation approvals that ensure the most expeditious and cost-effective delivery of the project; and

(c) Report its findings and recommendations on the items described in (a) and (b) of this subsection to the joint transportation committee, the office of financial management, and the governor by September 1, 2006.

(5) Upon receipt of the expert review panel's findings and recommendations under subsection (4)(c) of this section, the governor must make a finding of whether each finance plan is feasible and sufficient to complete the project as described in the draft environmental impact statement.

(6) Nothing in this section shall be interpreted to delay construction of any of the projects referenced in this section.

NEW SECTION. Sec. 29. A new section is added to chapter 36.120 RCW to read as follows:

(1) The most populous city, within the three-county region eligible to create a regional transportation investment district under this chapter, shall submit an advisory ballot to the city voters at the 2006 general election regarding voter preference of the tunnel and rebuild alternatives described in the environmental impact statement relative to the Alaskan Way viaduct project. The results of the election shall be advisory only and not binding regarding the final project to be constructed.

(2) In the alternative to the provisions of subsection (1) of this section, following the report of the expert review panel's findings and recommendations completed under section 28(4)(c) of this act, the city legislative authority shall hold public hearings on the findings and recommendations. After such time, and by November 1, 2006, the city legislative authority shall adopt by ordinance a preferred alternative for the Alaskan Way viaduct and Seattle Seawall replacement project. The preferred alternative must, at a minimum, be based on a substantial project mitigation plan and a comprehensive cost estimate review using the department's cost estimate validation process.

NEW SECTION. Sec. 30. Section 22 of this act expires July 1, 2006.

NEW SECTION. Sec. 31. Section 23 of this act takes effect July 1, 2006.

Passed by the House March 8, 2006.

Passed by the Senate March 7, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 312

[House Bill 2879]

## REAL ESTATE EXCISE TAX

AN ACT Relating to the electronic administration of the real estate excise tax; amending RCW 82.45.210; reenacting and amending RCW 82.45.180; and declaring an emergency.

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

**Sec. 1.** RCW 82.45.180 and 2005 c 486 s 2 and 2005 c 480 s 2 are each reenacted and amended to read as follows:

(1)(a) For taxes collected by the county under this chapter, the county treasurer shall collect a five-dollar fee on all transactions required by this chapter where the transaction does not require the payment of tax. A total of five dollars shall be collected in the form of a tax and fee, where the calculated tax payment is less than five dollars. ~~((Through June 30, 2010, the county treasurer shall collect an additional five-dollar fee on all transactions required by this chapter where the transaction does not require the payment of a tax, and on all taxable transactions required by this chapter where the calculated tax payment is less than five dollars. This additional five-dollar fee shall be deposited in the county treasurer's real estate excise tax electronic technology account.))~~ Through June 30, 2006, the county treasurer shall place one percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. After June 30, 2006, the county treasurer shall place one and three-tenths percent of the taxes collected by the county under this chapter and the treasurer's fee in the county current expense fund to defray costs of collection. For taxes collected by the county under this chapter before July 1, 2006, the county treasurer shall pay over to the state treasurer and account to the department of revenue for the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. For taxes collected by the county under this chapter after June 30, 2006, on a monthly basis the county treasurer shall pay over to the state treasurer the month's transmittal. The month's transmittal must be received by the state treasurer by ~~((5:00))~~ 12:00 p.m. on the last working day of each month. The county treasurer shall account to the department for the month's transmittal by the twentieth day of the month following the month in which the month's transmittal was paid over to the state treasurer. The state treasurer shall deposit the proceeds in the general fund.

(b) For purposes of this subsection, the definitions in this subsection apply.

(i) "Close of business" means the time when the county treasurer makes his or her daily deposit of proceeds.

(ii) "Month's transmittal" means all proceeds deposited by the county through the close of business of the day that is two working days before the last working day of the month. This definition of "month's transmittal" shall not be construed as requiring any change in a county's practices regarding the timing of its daily deposits of proceeds.

(iii) "Proceeds" means moneys collected and received by the county from the taxes imposed by this chapter, less the county's share of the proceeds used to defray the county's costs of collection allowable in (a) of this subsection.

(iv) "Working day" means a calendar day, except Saturdays, Sundays, and all legal holidays as provided in RCW 1.16.050.

(2) For taxes collected by the department of revenue under this chapter, the department shall remit the tax to the state treasurer who shall deposit the proceeds of any state tax in the general fund. The state treasurer shall deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account hereby created in the state treasury. Moneys in the local real estate excise tax account may be spent only for distribution to counties, cities, and towns imposing a tax under chapter 82.46 RCW. Except as provided in RCW 43.08.190, all earnings of investments of balances in the local real estate excise tax account shall be credited to the local real estate excise tax account and distributed to the counties, cities, and towns monthly. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority. The state treasurer shall make the distribution under this subsection without appropriation.

(3)(a) The real estate excise tax electronic technology account is created in the custody of the state treasurer. An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW.

(b) Through June 30, 2010, the county treasurer shall collect an additional five-dollar fee on all ~~((taxable))~~ transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer shall remit this fee to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer shall place money from this fee in the real estate excise tax electronic technology account. By the twentieth day of the subsequent month, the state treasurer shall distribute to each county treasurer according to the following formula: Three-quarters of the funds available shall be equally distributed among the thirty-nine counties; and the balance shall be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

(c) When received by the county treasurer, the funds shall be placed in a special real estate excise tax electronic technology fund held by the county treasurer to be used exclusively for the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits. Funds may be expended to make the system compatible with the automated real estate excise tax system developed by the department and compatible with the processes used in the offices of the county assessor and county auditor. Any funds held in the account that are not expended by July 1, 2015, revert to the county capital improvements fund in accordance with RCW 82.46.010.

**Sec. 2.** RCW 82.45.210 and 2005 c 480 s 4 are each amended to read as follows:

(1) To the extent that funds are appropriated, the department shall administer a grant program for counties to assist in the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits that is compatible with the automated real estate excise tax system developed by the department, and to assist in complying with the requirements of RCW 82.45.180(1).

(2) Subject to the limits in subsection (3) of this section, the amount of the grant shall be equal to the amount paid by a county to:

(a) Purchase computer hardware or software, or to repair or upgrade existing computer hardware or software, used for the electronic processing and reporting of real estate excise tax affidavits and that is compatible with the automated real estate excise tax system developed by the department; and

(b) Make changes to existing software that are necessary to comply with the requirements of RCW 82.45.180(1).

(3)(a) No county is eligible for grants under this section totaling more than one hundred thousand dollars.

(b) Grant funds shall not be awarded for expenditures made by a county with funds distributed to the county by the state treasurer under RCW 82.45.180(3)(b).

(4) No more than three million nine hundred thousand dollars in grants may be awarded under this section.

(5) The source of funds for this grant program is the real estate excise tax grant account created in RCW 82.45.200.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 14, 2006.

Passed by the Senate March 7, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 313

[Engrossed House Bill 3261]

### INDETERMINATE SENTENCE REVIEW BOARD—VICTIM INVOLVEMENT

AN ACT Relating to strengthening the review process by the indeterminate sentence review board by adding two members to the board and allowing victims to provide input at board hearings involving offenders sentenced under RCW 9.94A.712; amending RCW 9.95.003 and 9.95.420; and declaring an emergency.

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

*\*Sec. 1. RCW 9.95.003 and 1997 c 350 s 2 are each amended to read as follows:*

*The board shall consist of a (~~chairman~~) chair, a vice-chair, and (~~two~~) three other members, each of whom shall be appointed by the governor with the consent of the senate. Each member shall hold office for a term of five years, and until his or her successor is appointed and qualified. The terms shall expire on April 15th of the expiration year. Vacancies in the membership of the board shall be filled by appointment by the governor with the consent of the senate. In the event of the inability of any member to act, the governor shall appoint some competent person to act in his stead during the continuance of such inability. The members shall not be removable during*

*their respective terms except for cause determined by the superior court of Thurston county. The governor in appointing the members shall designate one of them to serve as chairman at the governor's pleasure.*

*The members of the board and its officers and employees shall not engage in any other business or profession or hold any other public office without the prior approval of the executive ethics board indicating compliance with RCW 42.52.020, 42.52.030, 42.52.040 and 42.52.120; nor shall they, at the time of appointment or employment or during their incumbency, serve as the representative of any political party on an executive committee or other governing body thereof, or as an executive officer or employee of any political committee or association. The members of the board shall each severally receive salaries fixed by the governor in accordance with the provisions of RCW 43.03.040, and in addition shall receive travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.*

*The board may employ, and fix, with the approval of the governor, the compensation of and prescribe the duties of a secretary and such officers, employees, and assistants as may be necessary, and provide necessary quarters, supplies, and equipment.*

\*Sec. 1 was vetoed. See message at end of chapter.

**Sec. 2.** RCW 9.95.420 and 2002 c 174 s 1 are each amended to read as follows:

(1)(a) Except as provided in (c) of this subsection, before the expiration of the minimum term, as part of the end of sentence review process under RCW 72.09.340, 72.09.345, and where appropriate, 72.09.370, the department shall conduct, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(b) The board may contract for an additional, independent examination, subject to the standards in this section.

(c) If at the time the sentence is imposed by the superior court the offender's minimum term has expired or will expire within one hundred twenty days of the sentencing hearing, the department shall conduct, within ninety days of the offender's arrival at a department of corrections facility, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(2) The board shall impose the conditions and instructions provided for in RCW 9.94A.720. The board shall consider the department's recommendations and may impose conditions in addition to those recommended by the department. The board may impose or modify conditions of community custody following notice to the offender.

(3)(a) Except as provided in (b) of this subsection, no later than ninety days before expiration of the minimum term, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the



offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term, not to exceed an additional two years.

(b) If at the time the offender's minimum term has expired or will expire within one hundred twenty days of the offender's arrival at a department of correction's facility, then no later than one hundred twenty days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term, not to exceed an additional two years.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for the victims of any crimes for which the offender has been convicted to present oral, video, written, or in-person testimony to the board. The procedures for victim input shall be developed by rule. To facilitate victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record are forwarded as part of the judgment and sentence.

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

\*Sec. 3 was vetoed. See message at end of chapter.

Passed by the House February 10, 2006.

Passed by the Senate March 8, 2006.

Approved by the Governor March 29, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 1 and 3, Engrossed House Bill No. 3261 entitled:

"AN ACT Relating to strengthening the review process by the indeterminate sentence review board by adding two members to the board and allowing victims to provide input at board hearings involving offenders sentenced under RCW 9.94A.712."

The Indeterminate Sentencing Review Board (ISRB) is experiencing an increased caseload with the 2001 addition of indeterminate sentencing for sex offenders. New board members will be needed in the future. However, they are not critically needed at this time. In order for the ISRB to run efficiently with its current and projected caseloads, its current staffing and technology limits need to be improved before it adds new board members.

An emergency clause is also unnecessary. Because it is already the practice of the ISRB to provide victims the ability to participate in its hearing process, victims will not be harmed by any delay in enactment. The ISRB is fully supportive of the amendment to Chapter 9.95.420 RCW, and has agreed to comply with the requirements of the amendment in the interim before this bill takes effect.

For these reasons, I have vetoed Sections 1 and 3 of Engrossed House Bill No. 3261.

With the exception of Sections 1 and 3, Engrossed House Bill No. 3261 is approved."

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### CHAPTER 314

[Engrossed Senate Bill 5330]

#### ECONOMIC DEVELOPMENT GRANTS

AN ACT Relating to economic development grants and assistance; adding a new section to chapter 43.330 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** The legislature declares that it is the state's policy to encourage the use of federal and private funds for economic development purposes and to use state resources to leverage federal and private dollars to supplement state economic development efforts.

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

(1) The department shall make available, within existing resources, an inventory of grant opportunities for state agencies, local governments, and other community organizations engaged in economic development activities.

(2) In developing the inventory of economic development grant opportunities, the department may:

(a) Regularly review the federal register for opportunities to apply for grants, research projects, and demonstration projects;

(b) Maintain an inventory of grant opportunities with private foundations and businesses; and

(c) Consult with federal officials, including but not limited to those in the small business administration, the department of labor, the department of commerce, the department of agriculture, the department of ecology, as well as private foundations and businesses, on the prospects for obtaining federal and private funds for economic development purposes in Washington state.

(3) The department may also facilitate joint efforts between agencies and between local organizations and state agencies that will increase the likelihood of success in grant seeking and the attraction of major events.

Passed by the Senate March 8, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 315

[Engrossed Senate Bill 6152]

## FAIR CAMPAIGN PRACTICES ACT—VIOLATIONS

AN ACT Relating to penalties for violation of chapter 42.17 RCW, the public disclosure and fair campaign practices act; amending RCW 42.17.390 and 42.17.395; adding a new section to chapter 42.17 RCW; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 42.17 RCW to read as follows:

It is the intent of the legislature to increase the authority of the public disclosure commission to more effectively foster compliance with our state's public disclosure and fair campaign practices act. It is the intent of the legislature to make the agency's penalty authority for violations of this chapter more consistent with other agencies that enforce state ethics laws and more commensurate with the level of political spending in the state of Washington.

**Sec. 2.** RCW 42.17.390 and 1993 c 2 s 28 are each amended to read as follows:

One or more of the following civil remedies and sanctions may be imposed by court order in addition to any other remedies provided by law:

(1) If the court finds that the violation of any provision of this chapter by any candidate or political committee probably affected the outcome of any election, the result of said election may be held void and a special election held within sixty days of such finding. Any action to void an election shall be commenced within one year of the date of the election in question. It is intended that this remedy be imposed freely in all appropriate cases to protect the right of the electorate to an informed and knowledgeable vote.

(2) If any lobbyist or sponsor of any grass roots lobbying campaign violates any of the provisions of this chapter, his or her registration may be revoked or suspended and he or she may be enjoined from receiving compensation or making expenditures for lobbying: PROVIDED, HOWEVER, That imposition of such sanction shall not excuse said lobbyist from filing statements and reports required by this chapter.

(3) Any person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each such violation. However, a person or entity who violates RCW 42.17.640 may be subject to a civil penalty of ten thousand dollars or three times the amount of the contribution illegally made or accepted, whichever is greater.

(4) Any person who fails to file a properly completed statement or report within the time required by this chapter may be subject to a civil penalty of ten dollars per day for each day each such delinquency continues.

(5) Any person who fails to report a contribution or expenditure as required by this chapter may be subject to a civil penalty equivalent to the amount (~~he failed to report~~) not reported as required.

(6) The court may enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act required herein.

**Sec. 3.** RCW 42.17.395 and 1989 c 175 s 91 are each amended to read as follows:

(1) The commission may (a) determine whether an actual violation of this chapter has occurred; and (b) issue and enforce an appropriate order following such determination.

(2) The commission, in cases where it chooses to determine whether an actual violation ~~((of this chapter))~~ has occurred, shall hold a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to make such determination. Any order that the commission issues under this section shall be pursuant to such hearing.

(3) In lieu of holding a hearing or issuing an order under this section, the commission may refer the matter to the attorney general or other enforcement agency as provided in RCW 42.17.360.

(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17.390~~((1) (b), (c), (d), or (e): PROVIDED, That))~~ (2) through (5). No individual penalty assessed by the commission may exceed one thousand seven hundred dollars, and in any case where multiple violations are involved in a single complaint or hearing, the maximum aggregate penalty may not exceed ~~((two))~~ four thousand ~~((five))~~ two hundred dollars.

(5) An order issued by the commission under this section shall be subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW. If the commission's order is not satisfied and no petition for review is filed within thirty days as provided in RCW 34.05.542, the commission may petition a court of competent jurisdiction of any county in which a petition for review could be filed under that section, for an order of enforcement. Proceedings in connection with the commission's petition shall be in accordance with RCW 42.17.397.

**NEW SECTION. Sec. 4.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate February 9, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 316

[Engrossed Substitute Senate Bill 6244]

### OIL SPILL PREVENTION AND RESPONSE

AN ACT Relating to oil spill prevention, preparedness, and response; and adding new sections to chapter 88.46 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 88.46 RCW to read as follows:

(1) The department's rules authorized under RCW 88.46.160 and this section shall be scaled to the risk posed to people and to the environment, and be categorized by type of transfer, volume of oil, frequency of transfers, and such other risk factors as identified by the department.

(2) The rules may require prior notice be provided before an oil transfer, regulated under this chapter, occurs in situations defined by the department as posing a higher risk. The notice may include the time, location, and volume of the oil transfer. The rules may not require prior notice when marine fuel outlets are transferring less than three thousand gallons of oil in a single transaction to a ship that is not a covered vessel and the transfers are scheduled less than four hours in advance.

(3) The department may require semiannual reporting of volumes of oil transferred to ships by a marine fuel outlet.

(4) The rules may require additional measures to be taken in conjunction with the deployment of containment equipment or with the alternatives to deploying containment equipment. However, these measures must be scaled appropriately to the risks posed by the oil transfer.

(5) The rules shall include regulations to enhance the safety of oil transfers over water originating from vehicles transporting oil over private roads or highways of the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 88.46 RCW to read as follows:

In addition to other inspection authority provided for in this chapter and chapter 90.56 RCW, the department may conduct inspections of oil transfer operations regulated under RCW 88.46.160 or section 1 of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 88.46 RCW to read as follows:

If the director believes a person has violated or is violating or creates a substantial potential to violate the provisions of any rules adopted under this chapter, the director may institute such actions as authorized under RCW 88.46.070 (2) and (3).

**NEW SECTION. Sec. 4.** A new section is added to chapter 88.46 RCW to read as follows:

The department shall by rule adopt procedures to determine the adequacy of contingency plans approved under RCW 88.46.060. The rules shall require random practice drills without prior notice that will test the adequacy of the responding entities. The rules may provide for unannounced practice drills of individual contingency plans. The department shall review and publish a report on the drills, including an assessment of response time and available equipment and personnel compared to those listed in the contingency plans relying on the responding entities, and requirements, if any, for changes in the plans or their implementation. The department may require additional drills and changes in arrangements for implementing approved plans which are necessary to ensure their effective implementation.

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

Passed by the Senate March 6, 2006.

Passed by the House March 3, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 317

[Substitute Senate Bill 6246]

## OFFICE OF LIEUTENANT GOVERNOR

AN ACT Relating to the office of lieutenant governor; adding a new chapter to Title 43 RCW; creating a new section; and recodifying RCW 44.04.270, 44.52.010, 44.52.020, 44.52.030, 44.52.040, 44.52.050, 44.52.060, 44.52.070, 44.52.900, 44.52.901, 43.342.010, and 43.342.020.

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

**NEW SECTION. Sec. 1.** The legislature finds that as the duties and responsibilities of the office of lieutenant governor have continued to incrementally increase, they have been distributed among various noncorresponding chapters in statute. The legislature further finds that by consolidating the duties and responsibilities of the office of lieutenant governor under one chapter, it keeps our statutes consistent among the different statewide elected offices and greater facilitates the understanding of the role of the office of lieutenant governor and its many statutorily defined duties and responsibilities.

**NEW SECTION. Sec. 2.** A new chapter is added to Title 43 RCW to be named the "Office of Lieutenant Governor" and consisting of sections 3 through 5 of this act.

**NEW SECTION. Sec. 3.** The lieutenant governor has the following duties:

- (1) The lieutenant governor serves as president of the senate.
- (2) In addition to the events prescribed under the state Constitution, the lieutenant governor performs the duties of the governor when the governor is out of the state pursuant to RCW 43.06.040 and 43.06.050. When the lieutenant governor is called to perform the duties of the governor, he or she is compensated according to RCW 43.03.020.
- (3) When delegated to do so under RCW 41.72.030, the lieutenant governor shall award the law enforcement medal of honor during national law enforcement recognition week.

**NEW SECTION. Sec. 4.** The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

- (1) The lieutenant governor serves on the following boards and committees:
  - (a) Capitol furnishings preservation committee, RCW 27.48.040;
  - (b) Washington higher education facilities authority, RCW 28B.07.030;
  - (c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;
  - (d) State finance committee, RCW 43.33.010;
  - (e) State capitol committee, RCW 43.34.010;
  - (f) Washington health care facilities authority, RCW 70.37.030;
  - (g) State medal of merit nominating committee, RCW 1.40.020;
  - (h) Medal of valor committee, RCW 1.60.020; and
  - (i) Association of Washington generals, RCW 43.342.010 (as recodified by this act).
- (2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:
  - (a) Organized crime advisory board, RCW 43.43.858;
  - (b) Civil legal aid oversight committee, RCW 2.53.010;

- (c) Office of public defense advisory committee, RCW 2.70.030;
- (d) Washington state gambling commission, RCW 9.46.040;
- (e) Sentencing guidelines commission, RCW 9.94A.860;
- (f) State building code council, RCW 19.27.070;
- (g) Women's history consortium board of advisors, RCW 27.34.365;
- (h) Financial literacy public-private partnership, RCW 28A.300.450;
- (i) Joint administrative rules review committee, RCW 34.05.610;
- (j) Capital projects advisory review board, RCW 39.10.800;
- (k) Select committee on pension policy, RCW 41.04.276;
- (l) Legislative ethics board, RCW 42.52.310;
- (m) Washington citizens' commission on salaries, RCW 43.03.305;
- (n) Oral history advisory committee, RCW 43.07.230;
- (o) State council on aging, RCW 43.20A.685;
- (p) State investment board, RCW 43.33A.020;
- (q) Capitol campus design advisory committee, RCW 43.34.080;
- (r) Washington state arts commission, RCW 43.46.015;
- (s) Information services board, RCW 43.105.032;
- (t) K-20 educational network board, RCW 43.105.800;
- (u) Municipal research council, RCW 43.110.010;
- (v) Washington council for the prevention of child abuse and neglect, RCW 43.121.020;
- (w) PNWER-Net working subgroup under chapter 43.147 RCW;
- (x) Community economic revitalization board, RCW 43.160.030;
- (y) Washington economic development finance authority, RCW 43.163.020;
- (z) Tourism development advisory committee, RCW 43.330.095;
- (aa) Life sciences discovery fund authority, RCW 43.350.020;
- (bb) Legislative children's oversight committee, RCW 44.04.220;
- (cc) Joint legislative audit and review committee, RCW 44.28.010;
- (dd) Joint committee on energy supply and energy conservation, RCW 44.39.015;
- (ee) Legislative evaluation and accountability program committee, RCW 44.48.010;
- (ff) Agency council on coordinated transportation, RCW 47.06B.020;
- (gg) Manufactured housing task force, RCW 59.22.090;
- (hh) Washington horse racing commission, RCW 67.16.014;
- (ii) Correctional industries board of directors, RCW 72.09.080;
- (jj) Joint committee on veterans' and military affairs, RCW 73.04.150;
- (kk) Washington state parks centennial advisory committee, RCW 79A.75.010;
- (ll) Puget Sound council, RCW 90.71.030;
- (mm) Joint legislative committee on water supply during drought, RCW 90.86.020;
- (nn) Statute law committee, RCW 1.08.001; and
- (oo) Joint legislative oversight committee on trade policy, RCW 44.55.020.

**NEW SECTION. Sec. 5.** The following sections are each recodified as sections in chapter 43.— RCW (created in section 2 of this act):

- (1) RCW 44.04.270, legislative international trade account;
- (2) RCW 44.52.010, legislative committee on economic development;
- (3) RCW 44.52.020, legislative committee on economic development;

- (4) RCW 44.52.030, legislative committee on economic development;
- (5) RCW 44.52.040, legislative committee on economic development;
- (6) RCW 44.52.050, legislative committee on economic development;
- (7) RCW 44.52.060, legislative committee on economic development;
- (8) RCW 44.52.070, legislative committee on economic development;
- (9) RCW 44.52.900, legislative committee on economic development;
- (10) RCW 44.52.901, legislative committee on economic development; and
- (11) RCW 43.342.010 and 43.342.020, association of Washington generals.

Passed by the Senate February 8, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

**CHAPTER 318**

[Substitute Senate Bill 6247]

**LOCALLY IMPOSED MOTOR VEHICLE EXCISE TAXES**

AN ACT Relating to uniform administration of locally imposed motor vehicle excise taxes; amending RCW 81.100.060, 82.44.060, 82.80.130, 82.44.065, 82.44.090, 82.44.100, and 82.44.120; adding new sections to chapter 82.44 RCW; and repealing RCW 82.44.022, 82.44.023, 82.44.025, 82.44.080, 82.44.130, 82.44.155, 82.44.157, 82.44.160, and 82.44.170.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 82.44 RCW to read as follows:

(1) For the purpose of determining any locally imposed motor vehicle excise tax, the value of a truck-type power or trailing unit shall be the latest purchase price of the vehicle, excluding applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the following percentage based on year of service of the vehicle since last sale. The latest purchase year shall be considered the first year of service.

YEAR OF SERVICE	PERCENTAGE
1	100
2	81
3	67
4	55
5	45
6	37
7	30
8	25
9	20
10	16
11	13
12	11



13	9
14	7
15	3
16 or older	0

(2) The reissuance of title and registration for a truck-type power or trailing unit because of the installation of body or special equipment shall be treated as a sale, and the value of the truck-type power or trailing unit at that time, as determined by the department from such information as may be available, shall be considered the latest purchase price.

(3) For the purpose of determining any locally imposed motor vehicle excise tax, the value of a motor vehicle other than a truck-type power or trailing unit shall be eighty-five percent of the manufacturer's base suggested retail price of the vehicle when first offered for sale as a new vehicle, excluding any optional equipment, applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the applicable percentage listed in this subsection (3) based on year of service of the vehicle.

If the manufacturer's base suggested retail price is unavailable or otherwise unascertainable at the time of initial registration in this state, the department shall determine a value equivalent to a manufacturer's base suggested retail price as follows:

(a) The department shall determine a value using any information that may be available, including any guidebook, report, or compendium of recognized standing in the automotive industry or the selling price and year of sale of the vehicle. The department may use an appraisal by the county assessor. In valuing a vehicle for which the current value or selling price is not indicative of the value of similar vehicles of the same year and model, the department shall establish a value that more closely represents the average value of similar vehicles of the same year and model. The value determined in this subsection (3)(a) shall be divided by the applicable percentage listed in (b) of this subsection (3) to establish a value equivalent to a manufacturer's base suggested retail price and this value shall be multiplied by eighty-five percent.

(b) The year the vehicle is offered for sale as a new vehicle shall be considered the first year of service.

YEAR OF SERVICE	PERCENTAGE
1	100
2	81
3	72
4	63
5	55
6	47
7	41
8	36
9	32

10	27
11	26
12	24
13	23
14	21
15	16
16 or older	10

(4) For purposes of this chapter, value shall exclude value attributable to modifications of a motor vehicle and equipment that are designed to facilitate the use or operation of the motor vehicle by a person with a disability.

**Sec. 2.** RCW 81.100.060 and 2002 c 56 s 411 are each amended to read as follows:

A county with a population of one million or more and a county with a population of from two hundred ten thousand to less than one million that is adjoining a county with a population of one million or more, having within their boundaries existing or planned high-occupancy vehicle lanes on the state highway system, or a regional transportation investment district for capital improvements, but only to the extent that the surcharge has not already been imposed by the county, may, with voter approval, impose a local surcharge of not more than three-tenths of one percent of the value on vehicles registered to a person residing within the county and not more than 13.64 percent on the state sales and use taxes paid under the rate in RCW 82.08.020(2) on retail car rentals within the county or investment district. A county may impose the surcharge only to the extent that it has not been imposed by the district. No surcharge may be imposed on vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.085, or 46.16.090.

Counties or investment districts imposing a tax under this section shall contract, before the effective date of the resolution or ordinance imposing a surcharge, administration and collection to the state department of licensing, and department of revenue, as appropriate, which shall deduct an amount, as provided by contract, for administration and collection expenses incurred by the department. All administrative provisions in chapters 82.03, 82.32, and 82.44 RCW, as existing on January 1, 2006, shall, insofar as they are applicable to motor vehicle excise taxes, be applicable to surcharges imposed under this section before the effective date of this act. Motor vehicles subject to the local surcharge authorized in this section shall be administered in accordance with this act if the surcharge is first imposed on or after the effective date of this act. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW shall, insofar as they are applicable to state sales and use taxes, be applicable to surcharges imposed under this section.

If the tax authorized in RCW 81.100.030 is also imposed, the total proceeds from tax sources imposed under this section and RCW 81.100.030 each year shall not exceed the maximum amount which could be collected under this section.

**Sec. 3.** RCW 82.44.060 and 1990 c 42 s 304 are each amended to read as follows:

~~((The))~~ Any locally imposed excise tax ~~((hereby imposed))~~ shall be due and payable to the department or its agents at the time of registration of a motor vehicle. Whenever an application is made to the department or its agents for a license for a motor vehicle there shall be collected, in addition to the amount of the license fee or renewal license fee, the amount of ~~((the))~~ any locally imposed excise tax ~~((imposed by this chapter))~~, and no dealer's license or license plates, and no license or license plates for a motor vehicle shall be issued unless such tax is paid in full. ~~((The excise tax hereby imposed))~~ Locally imposed excise taxes shall be collected for each registration year. ~~((The))~~ Any locally imposed excise tax upon a motor vehicle licensed for the first time in this state shall be levied for one full registration year commencing on the date of the calendar year designated by the department and ending on the same date of the next succeeding calendar year. For vehicles registered under chapter 46.87 RCW, proportional registration, and for vehicle dealer plates issued under chapter 46.70 RCW, the registration year is the period provided in those chapters(~~PROVIDED, That~~). However, the tax shall in no case be less than two dollars except for proportionally registered vehicles.

A motor vehicle shall be deemed licensed for the first time in this state when such vehicle was not previously licensed by this state for the registration year immediately preceding the registration year in which the application for license is made or when the vehicle has been registered in another jurisdiction subsequent to any prior registration in this state.

No additional tax shall be imposed under this chapter upon any vehicle upon the transfer of ownership thereof if the tax imposed with respect to such vehicle has already been paid for the registration year or fraction of a registration year in which transfer of ownership occurs.

**Sec. 4.** RCW 82.80.130 and 2003 c 83 s 206 are each amended to read as follows:

(1) Public transportation benefit areas authorized to implement passenger-only ferry service under RCW 36.57A.200 whose boundaries (a) are on the Puget Sound, but (b) do not include an area where a regional transit authority has been formed, may submit an authorizing proposition to the voters and, if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding four-tenths of one percent on the value of every motor vehicle owned by a resident of the taxing district, solely for the purpose of providing passenger-only ferry service. The tax must be collected only at the time of vehicle license renewal under chapter 46.16 RCW. The tax will be imposed on vehicles previously registered in another state or nation when they are initially registered in this state. The tax will not be imposed at the time of sale by a licensed vehicle dealer. In a county imposing a motor vehicle excise tax surcharge under RCW 81.100.060, the maximum tax rate under this section must be reduced to a rate equal to four-tenths of one percent on the value less the equivalent motor vehicle excise tax rate of the surcharge imposed under RCW 81.100.060. This rate does not apply to vehicles licensed under RCW 46.16.070 with an unladen weight more than six thousand pounds, or to vehicles licensed under RCW 46.16.079, 46.16.085, or 46.16.090.

(2) The department of licensing shall administer and collect the tax in accordance with chapter 82.44 RCW. The department shall deduct a percentage amount, as provided by contract, not to exceed ~~((two))~~ one percent of the taxes collected, for administration and collection expenses incurred by it. The remaining proceeds must be remitted to the custody of the state treasurer for monthly distribution to the public transportation benefit area.

(3) The public transportation benefit area imposing this tax shall delay the effective date at least six months from the date the fee is approved by the qualified voters of the authority area to allow the department of licensing to implement administration and collection of the tax.

(4) Before an authority may impose a tax authorized under this section, the authorization for imposition of the tax must be approved by a majority of the qualified electors of the authority area voting on that issue.

**Sec. 5.** RCW 82.44.065 and 1990 c 42 s 305 are each amended to read as follows:

If the department determines a value for a motor vehicle (~~under RCW 82.44.041~~) equivalent to a manufacturer's base suggested retail price or the value of a truck-type power or trailing unit under (~~RCW 82.44.041(2)~~) section 1 of this act, any person who pays ~~((the))~~ a locally imposed tax (~~under this chapter~~) for that vehicle may appeal the valuation to the department under chapter 34.05 RCW. If the taxpayer is successful on appeal, the department shall refund the excess tax in the manner provided in RCW 82.44.120.

**Sec. 6.** RCW 82.44.090 and 1961 c 15 s 82.44.090 are each amended to read as follows:

It shall be unlawful for the county auditor or any other person to issue a dealer's license or dealer's license plates or a license or identification plates with respect to any motor vehicle without collecting, with the required license fee, the amount of ~~((the))~~ any locally imposed motor vehicle excise tax due ~~((thereon under the provisions of this chapter))~~. Any violation of this section shall constitute a gross misdemeanor.

**Sec. 7.** RCW 82.44.100 and 1961 c 15 s 82.44.100 are each amended to read as follows:

The county auditor shall give to each person paying ~~((the))~~ a locally imposed motor vehicle excise tax a receipt therefor which shall sufficiently designate and identify the vehicle with respect to which the tax is paid. ~~((Such))~~ The receipt may be incorporated in the receipt given for the motor vehicle license fee or dealer's license fee paid.

**Sec. 8.** RCW 82.44.120 and 2003 c 53 s 403 are each amended to read as follows:

(1) Whenever any person has paid a motor vehicle license fee, and together therewith has paid ~~((an))~~ a locally imposed excise tax (~~imposed under the provisions of this chapter~~), and the director determines that the payor is entitled to a refund of the entire amount of the license fee as provided by law, then the payor shall also be entitled to a refund of the entire excise tax collected under the provisions of this chapter. In case the director determines that any person is entitled to a refund of only a part of the license fee so paid, the payor shall be entitled to a refund of the difference, if any, between the excise tax collected and that which should have been collected.

(2) In case no claim is to be made for the refund of the license fee or any part thereof, but claim is made by any person that he or she has paid an erroneously excessive amount of excise tax, the department shall determine in the manner generally provided in this chapter the amount of such excess, if any, that has been paid and shall certify to the state treasurer that such person is entitled to a refund in such amount.

(3) In any case where due to error, a person has been required to pay an excise tax pursuant to this chapter and a vehicle license fee pursuant to Title 46 RCW which amounts to an overpayment of ten dollars or more, such person shall be entitled to a refund of the entire amount of such overpayment, regardless of whether or not a refund of the overpayment has been requested. Conversely, if due to error, the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax.

(4) Any claim for refund of an erroneously excessive amount of excise tax or overpayment of excise tax with a motor vehicle license fee must be filed with the director within three years after the claimed erroneous payment was made.

(5) If the department approves the claim it shall notify the state treasurer to that effect, and the treasurer shall make such approved refunds from the general fund and shall mail or deliver the same to the person entitled thereto.

(6) Any person making any false statement under which he or she obtains any amount of refund to which he or she is not entitled under the provisions of this section is guilty of a gross misdemeanor.

(7) Before a local government subject to this chapter may impose a motor vehicle excise tax, the local government shall contract with the department for reimbursement for any refunds paid to a person by the treasurer.

NEW SECTION. Sec. 9. A new section is added to chapter 82.44 RCW to read as follows:

Before a local government subject to this chapter may impose a motor vehicle excise tax, the local government must contract with the department for the collection of the tax. The department may charge a reasonable amount, not to exceed one percent of tax collections, for the administration and collection of the tax.

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

(1) RCW 82.44.022 (Credit on personal-use motor vehicle) and 1998 c 321 s 2;

(2) RCW 82.44.023 (Exemption—Rental cars—Alteration of license plate month and year tabs—Rules—Taxes upon sale) and 1998 c 321 s 38, 1998 c 145 s 1, 1994 c 227 s 3, & 1992 c 194 s 8;

(3) RCW 82.44.025 (Exemption—Vehicles of Taipei Economic and Cultural Office) and 1998 c 321 s 39 & 1996 c 139 s 3;

(4) RCW 82.44.080 (Tax additional) and 1961 c 15 s 82.44.080;

(5) RCW 82.44.130 (Ad valorem taxation barred) and 1961 c 15 s 82.44.130;

(6) RCW 82.44.155 (City police and fire protection assistance account—Distribution to cities and towns—Apportionment) and 1998 c 321 s 40, 1993 c 492 s 254, 1991 c 199 s 223, & 1990 c 42 s 309;

(7) RCW 82.44.157 (Transfer of funds pursuant to government service agreement) and 1994 c 266 s 14;

(8) RCW 82.44.160 (Distribution to municipal research council) and 1999 c 309 s 931 & 1995 c 28 s 1; and

(9) RCW 82.44.170 (Computation of excise taxes when commingled with licensing fees) and 1990 c 42 s 311, 1987 c 244 s 56, & 1985 c 380 s 22.

Passed by the Senate February 11, 2006.

Passed by the House March 4, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 319

[Senate Bill 6280]

### PROPERTY TAX EXEMPTION—NONPROFIT ENTITIES

AN ACT Relating to removing the irrevocable dedication requirement for exemption from property tax for property owned by nonprofit entities; and amending RCW 84.36.805.

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

**Sec. 1.** RCW 84.36.805 and 2003 c 121 s 2 are each amended to read as follows:

(1) In order to qualify for an exemption under this chapter, the nonprofit organizations, associations, or corporations must satisfy the conditions in this section.

(2) The property must be used exclusively for the actual operation of the activity for which exemption is granted, unless otherwise provided, and does not exceed an amount reasonably necessary for that purpose, except:

(a) The loan or rental of the property does not subject the property to tax if:

(i) The rents and donations received for the use of the portion of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037, and 84.36.060(1) (a) and (b), the property would be exempt from tax if owned by the organization to which it is loaned or rented;

(b) The use of the property for fund-raising activities does not subject the property to tax if the fund-raising activities are consistent with the purposes for which the exemption is granted.

(3) ~~((The property must be irrevocably dedicated to the purpose for which exemption has been granted, and on the liquidation, dissolution, or abandonment by said organization, association, or corporation, said property will not inure directly or indirectly to the benefit of any shareholder or individual, except a nonprofit organization, association, or corporation which too would be entitled to property tax exemption. This property need not be irrevocably dedicated if it is leased or rented to those qualified for exemption under this chapter or RCW 84.36.560 for leased property, but only if under the terms of the lease or rental~~

~~agreement the nonprofit organization, association, or corporation receives the benefit of the exemption.~~

~~(4))~~ The facilities and services must be available to all regardless of race, color, national origin or ancestry.

~~((5))~~ (4) The organization, association, or corporation must be duly licensed or certified where such licensing or certification is required by law or regulation.

~~((6))~~ (5) Property sold to organizations, associations, or corporations with an option to be repurchased by the seller shall not qualify for exempt status. This subsection does not apply to property sold to a nonprofit entity, as defined in RCW 84.36.560(7), by:

(a) A nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal internal revenue code;

(b) A governmental entity established under RCW 35.21.660, 35.21.670, or 35.21.730;

(c) A housing authority created under RCW 35.82.030;

(d) A housing authority meeting the definition in RCW 35.82.210(2)(a); or

(e) A housing authority established under RCW 35.82.300.

~~((7))~~ (6) The department shall have access to its books in order to determine whether the nonprofit organization, association, or corporation is exempt from taxes under this chapter.

~~((8))~~ (7) This section does not apply to exemptions granted under RCW 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

Passed by the Senate February 8, 2006.

Passed by the House March 3, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 320

[Substitute Senate Bill 6362]

### ELECTIONS—VOTER REGISTRATION CHALLENGES

AN ACT Relating to modifying processes for challenging voter registration; amending RCW 29A.08.010, 29A.08.112, 29A.08.810, 29A.08.820, 29A.08.840, 29A.08.850, and 29A.40.140; adding a new section to chapter 29A.08 RCW; and repealing RCW 29A.08.830.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 29A.08 RCW to read as follows:

The county auditor shall, within seventy-two hours of receipt, publish on the auditor's internet web site the entire content of any voter challenge filed under chapter 29A.08 RCW. Immediately after publishing any voter challenge, the county auditor shall notify any person who requests to receive such notifications on an ongoing basis.

**Sec. 2.** RCW 29A.08.010 and 2005 c 246 s 2 are each amended to read as follows:

As used in this chapter: "Information required for voter registration" means the minimum information provided on a voter registration application that is

required by the county auditor in order to place a voter registration applicant on the voter registration rolls. This information includes:

- (1) Name;
- (2) Residential address;
- (3) Date of birth;
- (4) Washington state driver's license number or Washington state identification card number, or the last four digits of the applicant's Social Security number if the applicant does not have a Washington state driver's license or Washington state identification card;
- (5) A signature attesting to the truth of the information provided on the application; and
- (6) A check or indication in the box confirming the individual is a United States citizen.

The residential address provided must identify the actual physical residence of the voter in Washington, as defined in RCW 29A.04.151, with detail sufficient to allow the voter to be assigned to the proper precinct and to locate the voter to confirm his or her residence for purposes of verifying qualification to vote under Article VI, section 1 of the state Constitution. A residential address may be either a traditional address or a nontraditional address. A traditional address consists of a street number and name, optional apartment number or unit number, and city or town, as assigned by a local government, which serves to identify the parcel or building of residence and the unit if a multiunit residence. A nontraditional address consists of a narrative description of the location of the voter's residence, and may be used when a traditional address has not been assigned to the voter's residence. If the postal service does not deliver mail to the voter's residential address, or the voter prefers to receive mail at a different address, the voter may separately provide the mailing address at which they receive mail. Any mailing address provided shall be used only for mail delivery purposes and not for precinct assignment or confirmation of residence for voter qualification purposes.

If the individual does not have a driver's license, state identification card, or Social Security number, the registrant must be issued a unique voter registration number in order to be placed on the voter registration rolls. All other information supplied is ancillary and not to be used as grounds for not registering an applicant to vote. Modification of the language of the official Washington state voter registration form by the voter will not be accepted and will cause the rejection of the registrant's application.

**Sec. 3.** RCW 29A.08.112 and 2005 c 246 s 6 are each amended to read as follows:

No person registering to vote, who meets all the qualifications of a registered voter in the state of Washington, shall be disqualified because ~~((of a nontraditional address being used as a residence address. Voters using such an))~~ he or she lacks a traditional residential address. A voter who lacks a traditional residential address will be registered and assigned to a precinct based on the location provided~~((Voters without a traditional address will be registered at the county courthouse, city hall, or other public building near the area that the voter considers his or her residence. Registering at a nontraditional address will not disqualify a voter from requesting ongoing absentee voter status if the voter designates a valid mailing address)).~~



For the purposes of this section, (~~("nontraditional address" includes~~) a voter who resides in a shelter((s)), park((s)), motor home, marina, or other identifiable location((s)) that the voter deems to be his or her residence lacks a traditional address. A voter who registers under this section must provide a valid mailing address, and must still meet the requirement in Article VI, section 1 of the state Constitution that he or she live in the area for at least thirty days before the election.

A person who has a traditional residential address must use that address for voter registration purposes and is not eligible to register under this section.

**Sec. 4.** RCW 29A.08.810 and 2003 c 111 s 253 are each amended to read as follows:

~~(1) Registration of a person as a voter is presumptive evidence of his or her right to vote ((at any primary or election, general or special. A person's right to vote may be challenged at the polls only by a precinct judge or inspector. A challenge may be made only upon the belief or knowledge of the challenging officer that the voter is unqualified. The challenge must be supported by evidence or testimony given to the county canvassing board under RCW 29A.08.820 and may not be based on unsupported allegations or allegations by anonymous third parties. The identity of the challenger, and any third person involved in the challenge, shall be public record and shall be announced at the time the challenge is made.~~

~~Challenges initiated by a registered voter must be filed not later than the day before any primary or election, general or special, at the office of the appropriate county auditor. A challenged voter may properly transfer or reregister until three days before the primary or election, general or special, by applying personally to the county auditor. Challenges may also be initiated by the office of the county prosecuting attorney and must be filed in the same manner as challenges initiated by a registered voter). A challenge to the person's right to vote must be based on personal knowledge of one of the following:~~

~~(a) The challenged voter has been convicted of a felony and the voter's civil rights have not been restored;~~

~~(b) The challenged voter has been judicially declared ineligible to vote due to mental incompetency;~~

~~(c) The challenged voter does not live at the residential address provided, in which case the challenger must either:~~

~~(i) Provide the challenged voter's actual residence on the challenge form; or~~

~~(ii) Submit evidence that he or she exercised due diligence to verify that the challenged voter does not reside at the address provided and to attempt to contact the challenged voter to learn the challenged voter's actual residence, including that the challenger personally;~~

~~(A) Sent a letter with return service requested to the challenged voter's residential address provided, and to the challenged voter's mailing address, if provided;~~

~~(B) Visited the residential address provided and contacted persons at the address to determine whether the voter resides at the address and, if not, obtained and submitted with the challenge form a signed affidavit subject to the penalties of perjury from a person who owns or manages property, resides, or is employed at the address provided, that to his or her personal knowledge the~~

challenged voter does not reside at the address as provided on the voter registration;

(C) Searched local telephone directories, including online directories, to determine whether the voter maintains a telephone listing at any address in the county;

(D) Searched county auditor property records to determine whether the challenged voter owns any property in the county; and

(E) Searched the statewide voter registration data base to determine if the voter is registered at any other address in the state;

(d) The challenged voter will not be eighteen years of age by the next election; or

(e) The challenged voter is not a citizen of the United States.

(2) A person's right to vote may be challenged: By another registered voter or the county prosecuting attorney at any time, or by the poll site judge or inspector if the challenge is filed on election day regarding a voter who presents himself or herself to vote at the poll site.

(3) The challenger must file a signed affidavit subject to the penalties of perjury swearing that, to his or her personal knowledge and belief, having exercised due diligence to personally verify the evidence presented, the challenged voter either is not qualified to vote or does not reside at the address given on his or her voter registration record based on one of the reasons allowed in subsection (1) of this section. The challenger must provide the factual basis for the challenge, including any information required by subsection (1)(c) of this section, in the signed affidavit. The challenge may not be based on unsupported allegations or allegations by anonymous third parties. All documents pertaining to the challenge are public records.

(4) Challenges based on a felony conviction under RCW 29A.08.520 must be heard according to RCW 29A.08.520 and rules adopted by the secretary of state.

**Sec. 5.** RCW 29A.08.820 and 2003 c 111 s 254 are each amended to read as follows:

~~(When the right of a person has been challenged under RCW 29A.08.810 or 29A.08.830(2), the challenged person shall be permitted to vote a ballot which shall be placed in a sealed envelope separate from other voted ballots. In precincts where voting machines are used, any person whose right to vote is challenged under RCW 29A.08.810 or 29A.08.830(2) shall be furnished a paper ballot, which shall be placed in a sealed envelope after being marked. Included with the challenged ballot shall be (1) an affidavit filed under RCW 29A.08.830 challenging the person's right to vote or (2) an affidavit signed by the precinct election officer and any third party involved in the officer's challenge and stating the reasons the voter is being challenged. The sealed ballots of challenged voters shall be transmitted at the close of the election to the canvassing board or other authority charged by law with canvassing the returns of the particular primary or election. The county auditor shall notify the challenger and the challenged voter, by certified mail, of the time and place at which the county canvassing board will meet to rule on challenged ballots. If the challenge is made by a precinct election officer under RCW 29A.08.810, the officer must appear in person before the board unless he or she has received written authorization from the canvassing board to submit an affidavit supporting the~~

~~challenge. If the challenging officer has based his or her challenge upon evidence provided by a third party, that third party must appear with the challenging officer before the canvassing board, unless he or she has received written authorization from the canvassing board to submit an affidavit supporting the challenge. If the challenge is filed under RCW 29A.08.830, the challenger must either appear in person before the board or submit an affidavit supporting the challenge. The challenging party must prove to the canvassing board by clear and convincing evidence that the challenged voter's registration is improper. If the challenging party fails to meet this burden, the challenged ballot shall be accepted as valid and counted. The canvassing board shall give the challenged voter the opportunity to present testimony, either in person or by affidavit, and evidence to the canvassing board before making their determination. All challenged ballots must be determined no later than the time of canvassing for the particular primary or election. The decision of the canvassing board or other authority charged by law with canvassing the returns shall be final. Challenges of absentee ballots shall be determined according to RCW 29A.40.140.)~~ (1) Challenges initiated by a registered voter against a voter who registered to vote less than sixty days before the election, or who changed residence less than sixty days before the election without transferring his or her registration, must be filed not later than ten days before any primary or election, general or special, or within ten days of the voter being added to the voter registration data base, whichever is later, at the office of the appropriate county auditor. Challenges initiated by a registered voter against any other voter must be filed not later than forty-five days before the election. Challenges initiated by the office of the county prosecuting attorney must be filed in the same manner as challenges initiated by a registered voter.

(2)(a) If the challenge is filed within forty-five days before an election at which the challenged voter is eligible to vote, a notation of the challenge must be made immediately in the poll book or voter registration system, and the county canvassing board presides over the hearing.

(b) If the challenge is filed before the challenged voter's ballot is received, the ballot must be treated as a challenged ballot. A challenged ballot received at a polling place must be placed in a sealed envelope separate from other voted ballots.

(c) If the challenge is filed after the challenged voter's ballot is received, the challenge cannot affect the current election.

(3) If the challenge is filed at least forty-five days before an election at which the challenged voter is eligible to vote, the county auditor presides over the hearing.

**Sec. 6.** RCW 29A.08.840 and 2003 c 111 s 256 are each amended to read as follows:

~~((All challenges of voter registration under RCW 29A.08.830 made thirty days or more before a primary or election, general or special, shall be delivered to the appropriate county auditor who shall notify the challenged voter, by certified mail, that his or her voter registration has been challenged.~~

The notification shall be mailed to the address at which the challenged voter is registered, any address provided by the challenger under RCW 29A.08.830, and to any other address at which the individual whose registration is being challenged is alleged to reside or at which the county auditor would reasonably

~~expect that individual to receive notice of the challenge of his or her voter registration. Included in the notification shall be a request that the challenged voter appear at a hearing to be held within ten days of the mailing of the request, at the place, day, and hour stated, in order to determine the validity of his or her registration. The challenger shall be provided with a copy of this notification and request. If either the challenger or the challenged voter is unable to appear in person, he or she may file a reply by means of an affidavit stating under oath the reasons he or she believes the registration to be invalid or valid.~~

~~If both the challenger and the challenged voter file affidavits instead of appearing in person, an evaluation of the affidavits by the county auditor constitutes a hearing for the purposes of this section.~~

~~The county auditor shall hold a hearing at which time both parties may present their facts and arguments. After reviewing the facts and arguments, including any evidence submitted by either side, the county auditor shall rule as to the validity or invalidity of the challenged registration. His or her ruling is final subject only to a petition for judicial review by the superior court under chapter 34.05 RCW. If either party, or both parties, fail to appear at the meeting or fail to file an affidavit, the county auditor shall determine the status of the registration based on his or her evaluation of the available facts.)) (1) If the challenge is not in proper form or the factual basis for the challenge does not meet the legal grounds for a challenge, the county auditor may dismiss the challenge and notify the challenger of the reasons for the dismissal. A challenge is not in proper form if it is incomplete on its face or does not substantially comply with the form issued by the secretary of state.~~

~~(2) If the challenge is in proper form and the factual basis meets the legal grounds for a challenge, the county auditor must notify the challenged voter and provide a copy of the affidavit. The county auditor shall also provide to any person, upon request, a copy of all materials provided to the challenged voter. If the challenge is to the residential address provided by the voter, the challenged voter must be provided notice of the exceptions allowed in RCW 29A.08.112 and 29A.04.151, and Article VI, section 4 of the state Constitution. A challenged voter may transfer or reregister until the day before the election. The county auditor must schedule a hearing and notify the challenger and the challenged voter of the time and place for the hearing.~~

~~(3) All notice must be by certified mail to the address provided in the voter registration record, and any other addresses at which the challenged voter is alleged to reside or the county auditor reasonably expects the voter to receive notice. The challenger and challenged voter may either appear in person or submit testimony by affidavit.~~

~~(4) The challenger has the burden to prove by clear and convincing evidence that the challenged voter's registration is improper. The challenged voter must be provided a reasonable opportunity to respond. If the challenge is to the residential address provided by the voter, the challenged voter may provide evidence that he or she resides at the location described in his or her voter's registration records, or meets one of the exceptions allowed in RCW 29A.08.112 or 29A.04.151, or Article VI, section 4 of the state Constitution. If either the challenger or challenged voter fails to appear at the hearing, the challenge must be resolved based on the available facts.~~

(5) If the challenge is based on an allegation under RCW 29A.08.810(1) (a), (b), (d), or (e) and the canvassing board sustains the challenge, the challenged ballot shall not be counted. If the challenge is based on an allegation under RCW 29A.08.810(1)(c) and the canvassing board sustains the challenge, the board shall permit the voter to correct his or her voter registration and any races and ballot measures on the challenged ballot that the voter would have been qualified to vote for had the registration been correct shall be counted.

(6) If the challenger fails to prove by clear and convincing evidence that the registration is improper, the challenge must be dismissed and the pending challenged ballot must be accepted as valid. Challenged ballots must be resolved before certification of the election. The decision of the county auditor or canvassing board is final subject only to judicial review by the superior court under chapter 34.05 RCW.

**Sec. 7.** RCW 29A.08.850 and 2003 c 111 s 257 are each amended to read as follows:

The secretary of state ((as chief elections officer shall cause appropriate forms to be designed to carry out the provisions of RCW 29A.08.830 and 29A.08.840. The county auditors and registration assistants shall have such forms available. Further, a reasonable supply of such forms shall be at each polling place on the day of a primary or election, general or special)) must provide forms for voter registration challenges, and the county auditor must make such forms available. A challenge is not required to be submitted on the provided voter challenge form, but may be prepared using an official electronic voter challenge form template provided by the auditor or secretary of state that has been printed and signed by the challenger for submission.

**Sec. 8.** RCW 29A.40.140 and 2003 c 111 s 1014 are each amended to read as follows:

The qualifications of any absentee voter may be challenged ((at the time)) before the ((signature on the return envelope is verified and the ballot is processed by the canvassing board)) voted ballot is received. The board has the authority to determine the legality of any absentee ballot challenged under this section. Challenged ballots must be handled in accordance with chapter 29A.08 RCW.

**NEW SECTION. Sec. 9.** RCW 29A.08.830 (Affidavit—Administration, notice of challenge) and 2003 c 111 s 255 are each repealed.

Passed by the Senate March 8, 2006.

Passed by the House March 7, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 321

[Engrossed Second Substitute Senate Bill 6480]

### PUBLIC WORKS PROJECTS—APPRENTICESHIP REQUIREMENTS

AN ACT Relating to apprenticeship utilization requirements for department of transportation public works projects; amending RCW 39.04.300 and 39.04.320; and adding a new section to chapter 39.04 RCW.

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

**Sec. 1.** RCW 39.04.300 and 2005 c 3 s 1 are each amended to read as follows:

A well-trained construction trades work force is critical to the ability of the state of Washington to construct public works. Studies of the state's work force highlight population trends that, without a concerted effort to offset them, will lead to an inadequate supply of skilled workers in the construction industry. State government regularly constructs public works. The efficient and economical construction of public works projects will be harmed if there is not an ample supply of trained construction workers. Apprenticeship training programs are particularly effective in providing training and experience to individuals seeking to enter or advance in the work force. By providing for apprenticeship utilization on public works projects, state government can create opportunities for training and experience that will help assure that a trained work force will be available, including returning veterans, in sufficient numbers in the future for the construction of public works. Furthermore, the state of Washington hereby establishes its intent to assist returning veterans through programs such as the "helmets to hardhats" program, which is administered by the center for military recruitment, assessment, and veterans employment. It is the state's intent to assist returning veterans with apprenticeship placement career opportunities, in order to expedite the transition from military service to the construction work force.

**Sec. 2.** RCW 39.04.320 and 2005 c 3 s 3 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, from January 1, 2005, and thereafter, for all public works estimated to cost one million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(b)(i) This section does not apply to contracts advertised for bid before July 1, 2007, for any public works by the department of transportation.

(ii) For contracts advertised for bid on or after July 1, 2007, and before July 1, 2008, for all public works by the department of transportation estimated to cost five million dollars or more, all specifications shall require that no less than ten percent of the labor hours be performed by apprentices.

(iii) For contracts advertised for bid on or after July 1, 2008, and before July 1, 2009, for all public works by the department of transportation estimated to cost three million dollars or more, all specifications shall require that no less than twelve percent of the labor hours be performed by apprentices.

(iv) For contracts advertised for bid on or after July 1, 2009, for all public works by the department of transportation estimated to cost two million dollars or more, all specifications shall require that no less than fifteen percent of the labor hours be performed by apprentices.

(2) Awarding agency directors may adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas;

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation;

(c) Participating contractors have demonstrated a good faith effort to comply with the requirements of ~~((chapter 3, Laws of 2005))~~ RCW 39.04.300 and 39.04.310 and this section; or

(d) Other criteria the awarding agency director deems appropriate, which are subject to review by the office of the governor.

(3) The secretary of the department of transportation shall adjust the requirements of this section for a specific project for the following reasons:

(a) The demonstrated lack of availability of apprentices in specific geographic areas; or

(b) A disproportionately high ratio of material costs to labor hours, which does not make feasible the required minimum levels of apprentice participation.

(4) This section applies only to public works contracts awarded by the state. However, this section does not apply to contracts awarded by state four-year institutions of higher education~~((;))~~ or state agencies headed by a separately elected public official~~((; or the department of transportation))~~.

~~((4))~~ (5)(a) The department of general administration must provide information and technical assistance to affected agencies and collect the following data from affected agencies for each project covered by this section:

(i) The name of each apprentice and apprentice registration number;

(ii) The name of each project;

(iii) The dollar value of each project;

(iv) The date of the contractor's notice to proceed;

(v) The number of apprentices and labor hours worked by them, categorized by trade or craft;

(vi) The number of journey level workers and labor hours worked by them, categorized by trade or craft; and

(vii) The number, type, and rationale for the exceptions granted under subsection (2) of this section.

(b) The department of labor and industries shall assist the department of general administration in providing information and technical assistance.

~~((5))~~ (6) The secretary of transportation shall establish an apprenticeship utilization advisory committee, which shall include statewide geographic representation and consist of equal numbers of representatives of contractors and labor. The committee must include at least one member representing contractor businesses with less than thirty-five employees. The advisory committee shall meet regularly with the secretary of transportation to discuss implementation of this section by the department of transportation, including development of the process to be used to adjust the requirements of this section for a specific project. The committee shall provide a report to the legislature by January 1, 2008, on the effects of the apprentice labor requirement on transportation projects and on the availability of apprentice labor and programs statewide.

(7) At the request of the senate labor, commerce, research and development committee, the house of representatives commerce and labor committee, or their successor committees, and the governor, the department of general administration and the department of labor and industries shall compile and summarize the agency data and provide a joint report to both committees. The report shall include recommendations on modifications or improvements to the apprentice utilization program and information on skill shortages in each trade or craft.

NEW SECTION. **Sec. 3.** A new section is added to chapter 39.04 RCW to read as follows:

The Washington state apprenticeship and training council shall lead and coordinate an outreach effort to educate returning veterans about apprenticeship and career opportunities in the construction industry. The outreach effort shall include information about the "helmets to hardhats" program and other paths for making the transition from military service to the construction work force. The outreach effort shall be developed and coordinated with apprenticeship programs, other state agencies involved in work force training, and representatives of contractors and labor.

Passed by the Senate February 11, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 322

[Senate Bill 6504]

### PUBLIC HOSPITAL DISTRICTS—COMMISSIONER QUALIFICATIONS

AN ACT Relating to prohibiting employees of public hospital districts from serving as commissioners; and amending RCW 70.44.040.

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

**Sec. 1.** RCW 70.44.040 and 1997 c 99 s 1 are each amended to read as follows:

(1) The provisions of Title ~~((29))~~ 29A RCW relating to elections shall govern public hospital districts, except as provided in this chapter.

A public hospital district shall be created when the ballot proposition authorizing the creation of the district is approved by a simple majority vote of the voters of the proposed district voting on the proposition and the total vote cast upon the proposition exceeds forty percent of the total number of votes cast in the proposed district at the preceding state general election.

A public hospital district initially may be created with three, five, or seven commissioner districts. At the election at which the proposition is submitted to the voters as to whether a district shall be formed, three, five, or seven commissioners shall be elected from either three, five, or seven commissioner districts, or at-large positions, or both, as determined by resolution of the county commissioners of the county or counties in which the proposed public hospital district is located, all in accordance with RCW 70.44.054. The election of the initial commissioners shall be null and void if the district is not authorized to be created.

No primary shall be held. A special filing period shall be opened as provided in RCW ~~((29.15.170 and 29.15.180))~~ 29A.24.171 and 29A.24.181. The person receiving the greatest number of votes for the commissioner of each commissioner district or at-large position shall be elected as the commissioner of that district. The terms of office of the initial public hospital district commissioners shall be staggered, with the length of the terms assigned so that the person or persons who are elected receiving the greater number of votes being assigned a longer term or terms of office and each term of an initial



commissioner running until a successor assumes office who is elected at one of the next three following district general elections the first of which occurs at least one hundred twenty days after the date of the election where voters approved the ballot proposition creating the district, as follows:

(a) If the public hospital district will have three commissioners, the successor to one initial commissioner shall be elected at such first following district general election, the successor to one initial commissioner shall be elected at the second following district general election, and the successor to one initial commissioner shall be elected at the third following district general election;

(b) If the public hospital district will have five commissioners, the successor to one initial commissioner shall be elected at such first following district general election, the successors to two initial commissioners shall be elected at the second following district general election, and the successors to two initial commissioners shall be elected at the third following district general election;

(c) If the public hospital district will have seven commissioners, the successors to two initial commissioners shall be elected at such first following district general election, the successors to ~~((three—two))~~ two initial commissioners shall be elected at the second following district general election, and the successors to three initial commissioners shall be elected at the third following district general election.

The initial commissioners shall take office immediately when they are elected and qualified. The term of office of each successor shall be six years. Each commissioner shall serve until a successor is elected and qualified and assumes office in accordance with RCW ~~((29.04.170))~~ 29A.20.040.

(2) Only a registered voter who resides in a commissioner district may be a candidate for, or hold office as, a commissioner of the commissioner district. Voters of the entire public hospital district may vote at a primary or general election to elect a person as a commissioner of the commissioner district.

If the proposed public hospital district initially will have three commissioner districts and the public hospital district is county-wide, and if the county has three county legislative authority districts, the county legislative authority districts shall be used as public hospital district commissioner districts. In all other instances the county auditor of the county in which all or the largest portion of the proposed public hospital district is located shall draw the initial public hospital district commissioner districts and designate at-large positions, if appropriate, as provided in RCW 70.44.054. Each of the commissioner positions shall be numbered consecutively and associated with the commissioner district or at-large position of the same number.

The commissioners of a public hospital district that is not coterminous with the boundaries of a county that has three county legislative authority districts shall at the times required in chapter ~~((29.70))~~ 29A.76 RCW and may from time to time redraw commissioner district boundaries in a manner consistent with chapter ~~((29.70))~~ 29A.76 RCW.

(3) No person may hold office as a commissioner while serving as an employee of the public hospital district.

Passed by the Senate February 14, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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**CHAPTER 323**

[Substitute Senate Bill 6512]

**TAX INCENTIVES—HEAVY DUTY DIESEL VEHICLES**

AN ACT Relating to enhancing air quality at truck stops; adding a new section to chapter 82.04 RCW; adding new sections to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; creating a new section; and providing expiration dates.

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

**NEW SECTION. Sec. 1.** The legislature recognizes that the air quality around idling heavy duty diesel vehicles at truck stops can contribute to unhealthy conditions. Idling vehicles not only consume up to one billion gallons of diesel fuel a year, but also contribute to air pollution by releasing fine particles, volatile organic compounds, carbon monoxide, carbon dioxide, and nitrogen oxides. These emissions contribute to deteriorating human health conditions, including asthma, heart disease, cancer, and aggravated allergies. Idling vehicles also contribute to driver fatigue through exposure to noise, vibration, and elevated levels of carbon monoxide and other pollutants.

Washington state seeks to encourage private entities to address this source of air pollution by providing incentives to those who provide the infrastructure and services that support the use of auxiliary power through onboard or stand-alone electrification systems.

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

(1) In computing tax there may be deducted from the measure of tax amounts received from the retail sale, lease, or rental of auxiliary power to heavy duty diesel vehicles through onboard or stand-alone electrification systems.

(2) The definitions in this subsection apply throughout this section and sections 3 through 6 of this act unless the context clearly requires otherwise.

(a) "Heavy duty diesel vehicles" means any diesel vehicle with a gross vehicle weight rating over fourteen thousand pounds.

(b) "Onboard electrification systems" means the equipment necessary to provide auxiliary electrical service to heavy duty diesel vehicles that are equipped with the necessary components to accept electrical power, including inverters, heat and air systems capable of being powered by electricity, and hardware to plug into an electrical outlet.

(c) "Stand-alone electrification systems" means an independent system that supplies a heavy duty diesel vehicle's needs for heating, ventilation, and air conditioning without modification to the vehicle.

(3) This section expires July 1, 2015.

**NEW SECTION. Sec. 3.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of machinery and equipment, or to services rendered in respect to constructing structures, installing, constructing, repairing, cleaning, decorating, altering, or improving of structures or machinery and equipment, or to sales of tangible personal property

that becomes an ingredient or component of structures or machinery and equipment, if the machinery, equipment, or structure is integral and necessary for the retail sale, lease, or rental of auxiliary power to heavy duty diesel vehicles through onboard or stand-alone electrification systems. Structures and machinery and equipment that are used for the retail sale, lease, or rental of auxiliary power to heavy duty diesel vehicles through onboard or stand-alone electrification systems are exempt only on the portion integral and necessary for providing that service.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section.

(3) For the purposes of this section, the definitions in section 2 of this act apply.

(4) This section expires July 1, 2015.

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

(1) The provisions of this chapter do not apply in respect to the use of machinery and equipment, or to services rendered in respect to constructing structures, installing, constructing, repairing, cleaning, decorating, altering, or improving of structures or machinery and equipment, or tangible personal property that becomes an ingredient or component of structures or machinery and equipment, integral and necessary for the retail sale, lease, or rental of auxiliary power to heavy duty diesel vehicles through onboard or stand-alone electrification systems.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section.

(3) For the purposes of this section, the definitions in section 2 of this act apply.

(4) This section expires July 1, 2015.

**NEW SECTION. Sec. 5.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to the sale of, and labor and services rendered in respect to, tangible personal property installed on a heavy duty diesel vehicle if the property enables the vehicle to operate, while parked, through the use of an onboard electrification system. Only parts and other components that are specific to enabling a heavy duty diesel vehicle to operate, while parked, with an onboard electrification system are exempt under this section.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section.

(3) For the purposes of this section, the definitions in section 2 of this act apply.

(4) This section expires July 1, 2015.

**NEW SECTION. Sec. 6.** A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of tangible personal property, labor, or services if the property, labor, or services enable a heavy duty diesel vehicle to operate, while parked, through the use of an onboard electrification system. Only parts and other components that are

specific to enabling a heavy duty diesel vehicle to operate, while parked, with an onboard electrification system are exempt under this section.

(2) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section.

(3) For the purposes of this section, the definitions in section 2 of this act apply.

(4) This section expires July 1, 2015.

Passed by the Senate February 20, 2006.

Passed by the House March 6, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

### CHAPTER 324

[Substitute Senate Bill 6528]

#### TIRE CHAIN INSTALLATION AND REMOVAL BUSINESSES

AN ACT Relating to authorization for the department of transportation to allow roadside tire chain installation and removal businesses on state highway rights of way; amending RCW 47.32.120; and adding a new section to chapter 47.04 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 47.04 RCW to read as follows:

The department may issue written permits authorizing permittees to install or remove tire chains on motor vehicles with the following conditions:

(1) Chains may only be installed or removed at locations designated in the permit;

(2) Permittees must comply with terms and conditions in the permit relating to the safe and orderly movement of traffic; and

(3) Permittees may charge a fee to drivers for their services.

The department may issue sufficient permits for the installation or removal of tire chains that it finds necessary or desirable to accommodate the demand for those services consistent with the maximum convenience and safety to traffic. In issuing the permits, the department shall insure that the maximum practicable number of different individuals and entities receive permits, and that no one entity, to the extent practicable, is the sole permit holder for a particular location. The department may charge a fee no greater than fifty dollars to permittees for the issuance of permits. The department, in issuing a permit for the installation or removal of tire chains, assumes no responsibility for the actions, inactions, competence, or reliability of the permittee in performing those services and shall not be liable for the damages relating to acts or omissions of the permittees. The department shall adopt rules to implement this section, including requiring permittees to wear reflective clothing and use appropriate signage.

**Sec. 2.** RCW 47.32.120 and 1984 c 7 s 183 are each amended to read as follows:

Except as provided in section 1 of this act, it is unlawful for any person to erect a structure or establishment or maintain a business, the nature of which requires the use by patrons or customers of property adjoining the structure or establishment unless the structure or establishment is located at a distance from

the right of way of any state highway so that none of the right of way thereof is required for the use of the patrons or customers of the establishment. Any such structure erected or business maintained that makes use of or tends to invite patrons to use the right of way or any portion thereof of any state highway by occupying it while a patron is a public nuisance, and the department may fence the right of way of the state highway to prevent such unauthorized use thereof.

Passed by the Senate March 7, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

### CHAPTER 325

[Senate Bill 6531]

#### LIMITED LIABILITY COMPANIES—DISSOLUTION—REMEDIES PRESERVED

AN ACT Relating to preserving remedies when limited liability companies dissolve; and adding a new section to chapter 25.15 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 25.15 RCW under Article VIII to read as follows:

The dissolution of a limited liability company does not take away or impair any remedy available against that limited liability company, its managers, or its members for any right or claim existing, or any liability incurred at any time, whether prior to or after dissolution, unless an action or other proceeding thereon is not commenced within three years after the effective date of dissolution. Such an action or proceeding against the limited liability company may be defended by the limited liability company in its own name.

Passed by the Senate February 11, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

### CHAPTER 326

[Senate Bill 6545]

#### MOTOR VEHICLE LICENSE PLATES—PLACEMENT

AN ACT Relating to the minimum height requirement for the attachment of vehicle license plates; and reenacting and amending RCW 46.16.240.

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

**Sec. 1.** RCW 46.16.240 and 1987 c 330 s 704 and 1987 c 142 s 3 are each reenacted and amended to read as follows:

The vehicle license number plates shall be attached conspicuously at the front and rear of each vehicle for which the same are issued and in such a manner that they can be plainly seen and read at all times(~~(= PROVIDED, That)~~). However, if only one license number plate is legally issued for any vehicle such plate shall be conspicuously attached to the rear of such vehicle. Each vehicle license number plate shall be placed or hung in a horizontal position at a distance of not (~~(less than one foot nor)~~) more than four feet from

the ground and shall be kept clean so as to be plainly seen and read at all times(~~(= PROVIDED, HOWEVER, That)~~). In cases where the body construction of the vehicle is such that compliance with this section is impossible, permission to deviate therefrom may be granted by the state patrol. It shall be unlawful to display upon the front or rear of any vehicle, vehicle license number plate or plates other than those furnished by the director for such vehicle or to display upon any vehicle any vehicle license number plate or plates which have been in any manner changed, altered, disfigured or have become illegible. License plate frames may be used on vehicle license number plates only if the frames do not obscure license tabs or identifying letters or numbers on the plates and the plates can be plainly seen and read at all times. It is unlawful to use any holders, frames, or any materials that in any manner change, alter, or make the vehicle license number plates illegible. It shall be unlawful for any person to operate any vehicle unless there shall be displayed thereon valid vehicle license number plates attached as herein provided.

Passed by the Senate February 11, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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### CHAPTER 327

[Substitute Senate Bill 6552]

#### COMMERCIAL DRIVER'S LICENSES

AN ACT Relating to commercial driver's licenses; and amending RCW 46.20.270, 46.25.010, 46.25.050, 46.25.090, 46.25.120, 46.52.101, and 46.63.070.

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

**Sec. 1.** RCW 46.20.270 and 2005 c 288 s 3 are each amended to read as follows:

(1) Whenever any person is convicted of any offense for which this title makes mandatory the withholding of the driving privilege of such person by the department, the court in which such conviction is had shall forthwith mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department. A valid driver's license or permit to drive marked under this subsection shall remain in effect until the person's driving privilege is withheld by the department pursuant to notice given under RCW 46.20.245, unless the license or permit expires or otherwise becomes invalid prior to the effective date of this action. Perfection of notice of appeal shall stay the execution of sentence including the withholding of the driving privilege.

(2) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in Title 46 RCW which occur on federal installations within this state, shall immediately forward to the department (~~(within ten days of)~~) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, a payment of a fine (~~(or)~~), penalty, or court cost, a plea of guilty or nolo contendere or a finding of guilt, or a finding that any person has committed a traffic infraction an

abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

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

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

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

**Sec. 2.** RCW 46.25.010 and 2005 c 325 s 2 are each amended to read as follows:

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

(1) "Alcohol" means any substance containing any form of alcohol, including but not limited to ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means:

- (a) The number of grams of alcohol per one hundred milliliters of blood; or
- (b) The number of grams of alcohol per two hundred ten liters of breath.

(3) "Commercial driver's license" (CDL) means a license issued to an individual under chapter 46.20 RCW that has been endorsed in accordance with

the requirements of this chapter to ~~((an individual that authorizes))~~ authorize the individual to drive a class of commercial motor vehicle.

(4) The "commercial driver's license information system" (CDLIS) is the information system established pursuant to the CMVSA to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(5) "Commercial driver's instruction permit" means a permit issued under RCW 46.25.060(5).

(6) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property:

(a) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds;

(b) If the vehicle is designed to transport sixteen or more passengers, including the driver;

(c) If the vehicle is transporting hazardous materials as defined in this section; or

(d) If the vehicle is a school bus regardless of weight or size.

(7) "Conviction" ~~((has the definition set forth in RCW 46.20.270))~~ means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a prohibition against driving a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and 46.25.120, "drive" includes operation or physical control of a motor vehicle anywhere in the state.

(10) "Drugs" are those substances as defined by RCW 69.04.009, including, but not limited to, those substances defined by 49 C.F.R. 40.3.

(11) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.

(12) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single ~~((or a combination or articulated))~~ vehicle ~~((, or the registered gross weight, where this value cannot be determined))~~. The GVWR of a combination or articulated vehicle, commonly referred to as the "gross combined weight rating" or GCWR, is the GVWR of the power unit plus the GVWR of the towed unit or units. If the GVWR of any unit cannot be determined, the actual gross weight will be used. If a vehicle with a GVWR of less than 11,794 kilograms (26,001 pounds or less) has been structurally modified to carry a heavier load, then the actual gross weight capacity of the modified vehicle, as determined by RCW 46.44.041 and 46.44.042, will be used as the GVWR.

(13) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. Sec. 5103 and is required to be placarded under



subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73.

(14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(15) "Out-of-service order" means a ~~((temporary prohibition against driving a commercial motor vehicle))~~ declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation is out-of-service pursuant to 49 C.F.R. 386.72, 392.5, 395.13, 396.9, or compatible laws, or the North American uniform out-of-service criteria.

(16) "Positive alcohol confirmation test" means an alcohol confirmation test that:

(a) Has been conducted by a breath alcohol technician under 49 C.F.R. 40; and

(b) Indicates an alcohol concentration of 0.04 or more.

A report that a person has refused an alcohol test, under circumstances that constitute the refusal of an alcohol test under 49 C.F.R. 40, will be considered equivalent to a report of a positive alcohol confirmation test for the purposes of this chapter.

(17) "School bus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(18) "Serious traffic violation" means:

(a) Excessive speeding, defined as fifteen miles per hour or more in excess of the posted limit;

(b) Reckless driving, as defined under state or local law;

(c) A violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;

(d) Driving a commercial motor vehicle without obtaining a commercial driver's license;

(e) Driving a commercial motor vehicle without a commercial driver's license in the driver's possession; however, any individual who provides proof to the court by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, is not guilty of a "serious traffic offense";

(f) Driving a commercial motor vehicle without the proper class of commercial driver's license endorsement or endorsements for the specific vehicle group being operated or for the passenger or type of cargo being transported; and

(g) Any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, that the department determines by rule to be serious.

(19) "State" means a state of the United States and the District of Columbia.

(20) "Substance abuse professional" means an alcohol and drug specialist meeting the credentials, knowledge, training, and continuing education requirements of 49 C.F.R. 40.281.

(21) "Tank vehicle" means a vehicle that is designed to transport a liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Tank vehicles include, but are not limited to cargo tanks and portable tanks. However, this definition does not include portable tanks having a rated capacity under one thousand gallons.

(22) "United States" means the fifty states and the District of Columbia.

(23) "Verified positive drug test" means a drug test result or validity testing result from a laboratory certified under the authority of the federal department of health and human services that:

(a) Indicates a drug concentration at or above the cutoff concentration established under 49 C.F.R. 40.87; and

(b) Has undergone review and final determination by a medical review officer.

A report that a person has refused a drug test, under circumstances that constitute the refusal of a federal department of transportation drug test under 49 C.F.R. 40, will be considered equivalent to a report of a verified positive drug test for the purposes of this chapter.

**Sec. 3.** RCW 46.25.050 and 1995 c 393 s 1 are each amended to read as follows:

(1) Drivers of commercial motor vehicles shall obtain a commercial driver's license as required under this chapter ~~((by April 1, 1992. The director shall establish a program to convert all qualified commercial motor vehicle drivers by that date. After April 1, 1992,))~~. Except when driving under a commercial driver's instruction permit and a valid automobile or classified license and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle unless the person holds and is in immediate possession of a commercial driver's license and applicable endorsements valid for the vehicle they are driving. However, this requirement does not apply to any person:

(a) Who is the operator of a farm vehicle, and the vehicle is:

(i) Controlled and operated by a farmer;

(ii) Used to transport either agricultural products, which in this section include Christmas trees and wood products harvested from private tree farms and transported by vehicles weighing no more than forty thousand pounds licensed gross vehicle weight, farm machinery, farm supplies, or any combination of those materials to or from a farm;

(iii) Not used in the operations of a common or contract motor carrier; and

(iv) Used within one hundred fifty miles of the person's farm; or

(b) Who is a fire fighter or law enforcement officer operating emergency equipment, and:

(i) The fire fighter or law enforcement officer has successfully completed a driver training course approved by the director; and

(ii) The fire fighter or law enforcement officer carries a certificate attesting to the successful completion of the approved training course; or

(c) Who is operating a recreational vehicle for noncommercial purposes. As used in this section, "recreational vehicle" includes a vehicle towing a horse trailer for a noncommercial purpose; or

(d) Who is operating a commercial motor vehicle for military purposes. This exemption is applicable to active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. This exception is not applicable to United States reserve technicians.

(2) No person may drive a commercial motor vehicle while his or her driving privilege is suspended, revoked, or canceled, while subject to disqualification, or in violation of an out-of-service order. Violations of this subsection shall be punished in the same way as violations of RCW 46.20.342(1).

(3) The department shall to the extent possible enter into reciprocity agreements with adjoining states to allow the waivers described in subsection (1) of this section to apply to drivers holding commercial driver's licenses from those adjoining states.

**Sec. 4.** RCW 46.25.090 and 2005 c 325 s 5 are each amended to read as follows:

(1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.20.308 or 46.25.120, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

(a) Driving a motor vehicle under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more, or driving a noncommercial motor vehicle while the alcohol concentration in the person's system is 0.08 or more, or is 0.02 or more if the person is under age twenty-one, as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of a felony;

(e) Refusing to submit to a test or tests to determine the driver's alcohol concentration or the presence of any drug while driving a motor vehicle;

(f) Driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(g) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular homicide and negligent homicide.

If any of the violations set forth in this subsection occurred while transporting hazardous material, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the

offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ten years.

(4) A person is disqualified from driving a commercial motor vehicle for life who uses a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW.

(5)(a) A person is disqualified from driving a commercial motor vehicle for a period of:

~~((a))~~ (i) Not less than sixty days if:

~~((i))~~ (A) Convicted of or found to have committed a second serious traffic violation while driving a commercial motor vehicle; or

~~((ii))~~ (B) Convicted of reckless driving, where there has been a prior serious traffic violation; or

~~((b))~~ (ii) Not less than one hundred twenty days if:

~~((i))~~ (A) Convicted of or found to have committed a third or subsequent serious traffic violation while driving a commercial motor vehicle; or

~~((ii))~~ (B) Convicted of reckless driving, where there has been two or more prior serious traffic violations.

(b) The disqualification period under (a)(ii) of this subsection must be in addition to any other previous period of disqualification.

(c) For purposes of determining prior serious traffic violations under this subsection, each conviction of or finding that a driver has committed a serious traffic violation while driving a commercial motor vehicle or noncommercial motor vehicle, arising from a separate incident occurring within a three-year period, must be counted.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than ninety days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than one year nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial motor vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial motor vehicles in separate incidents;

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found

to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under RCW 46.25.125 that the person has received a verified positive drug test or positive alcohol confirmation test as part of the testing program conducted under 49 C.F.R. 40. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment and/or education program as recommended by the substance abuse professional, and until the person has met the requirements of RCW 46.25.100. The substance abuse professional shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five-year period are disqualified for life.

(8)(a) A person is disqualified from driving a commercial motor vehicle for the period of time specified in (b) of this subsection if he or she is convicted of or is found to have committed one of the following six offenses at a railroad-highway grade crossing while operating a commercial motor vehicle in violation of a federal, state, or local law or regulation:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement officer at the crossing;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(b) A person is disqualified from driving a commercial motor vehicle for a period of:

(i) Not less than sixty days if the driver is convicted of or is found to have committed a first violation of a railroad-highway grade crossing violation;

(ii) Not less than one hundred twenty days if the driver is convicted of or is found to have committed a second railroad-highway grade crossing violation in separate incidents within a three-year period;

(iii) Not less than one year if the driver is convicted of or is found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents within a three-year period.

(9) A person is disqualified from driving a commercial motor vehicle for not more than one year if a report has been received by the department from the federal motor carrier safety administration that the person's driving has been determined to constitute an imminent hazard as defined by 49 C.F.R. 383.5. A

person who is simultaneously disqualified from driving a commercial motor vehicle under this subsection and under other provisions of this chapter, or under 49 C.F.R. 383.52, shall serve those disqualification periods concurrently.

(10) Within ten days after suspending, revoking, or canceling a commercial driver's license or disqualifying a driver from operating a commercial motor vehicle, the department shall update its records to reflect that action.

**Sec. 5.** RCW 46.25.120 and 2002 c 272 s 5 are each amended to read as follows:

(1) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to RCW 46.61.506, to take a test or tests of that person's blood or breath for the purpose of determining that person's alcohol concentration or the presence of other drugs.

(2) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system or while under the influence of any drug.

(3) The law enforcement officer requesting the test under subsection (1) of this section shall warn the person requested to submit to the test that a refusal to submit will result in that person being disqualified from operating a commercial motor vehicle under RCW 46.25.090.

(4) If the person refuses testing, or submits to a test that discloses an alcohol concentration of 0.04 or more, the law enforcement officer shall submit a sworn report to the department certifying that the test was requested pursuant to subsection (1) of this section and that the person refused to submit to testing, or submitted to a test that disclosed an alcohol concentration of 0.04 or more.

(5) Upon receipt of the sworn report of a law enforcement officer under subsection (4) of this section, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090, subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle within this state while having alcohol in the person's system or while under the influence of any drug, whether the person refused to submit to the test or tests upon request of the officer after having been informed that the refusal would result in the disqualification of the person from driving a commercial motor vehicle, and, if the test was administered, whether the results indicated an alcohol concentration of 0.04 percent or more. The department shall order that the disqualification of the person either be rescinded or sustained. Any decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during the pendency of the hearing and appeal. If the disqualification of the person is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the

county of arrest to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

(6) If a motor carrier or employer who is required to have a testing program under 49 C.F.R. 382 knows that a commercial driver in his or her employ has refused to submit to testing under this section and has not been disqualified from driving a commercial motor vehicle, the employer may notify law enforcement or his or her medical review officer or breath alcohol technician that the driver has refused to submit to the required testing.

(7) The hearing provisions of this section do not apply to those persons disqualified from driving a commercial motor vehicle under RCW 46.25.090(7).

**Sec. 6.** RCW 46.52.101 and 1999 c 86 s 4 are each amended to read as follows:

(1) Every district court, municipal court, and clerk of a superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to the court or a traffic violations bureau, and shall keep a record of every official action by the court or its traffic violations bureau regarding the charge, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or penalty resulting from every traffic charge deposited with or presented to the court or traffic violations bureau. In the case of a record of a conviction for a violation of RCW 46.61.502 or 46.61.504, and notwithstanding any other provision of law, the court shall maintain the record permanently.

(2) (~~Within fourteen days~~) After the conviction, forfeiture of bail, or finding that a traffic infraction was committed for a violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, the clerk of the court in which the conviction was had, bail was forfeited, or the finding of commission was made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the court record covering the case. Report need not be made of a finding involving the illegal parking or standing of a vehicle.

(3) The abstract must be made upon a form or forms furnished by the director and must include the name and address of the party charged, the number, if any, of the party's driver's or chauffeur's license, the registration number of the vehicle involved if required by the director, the nature of the offense, the date of hearing, the plea, the judgment, whether the offense was an alcohol-related offense as defined in RCW 46.01.260(2), whether the incident that gave rise to the offense charged resulted in a fatality, whether bail was forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty, as the case may be.

(4) In courts where the judicial information system or other secure method of electronic transfer of information has been implemented between the court and the department of licensing, the court may electronically provide the information required in subsections (2), (3), and (5) of this section.

(5) The superior court clerk shall also forward a like report to the director upon the conviction of a person of a felony in the commission of which a vehicle was used.

(6) The director shall keep all abstracts received under this section at the director's office in Olympia. The abstracts must be open to public inspection during reasonable business hours.

(7) The officer, prosecuting attorney, or city attorney signing the charge or information in a case involving a charge of driving under the influence of intoxicating liquor or any drug shall immediately request from the director an abstract of convictions and forfeitures. The director shall furnish the requested abstract.

**Sec. 7.** RCW 46.63.070 and 2004 c 187 s 10 are each amended to read as follows:

(1) Any person who receives a notice of traffic infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction must be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records, and a record of the response and order shall be furnished to the department in accordance with RCW 46.20.270.

(3) If the person determined to have committed the infraction wishes to contest the determination the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5)(a) Except as provided in (b) and (c) of this subsection, in hearings conducted pursuant to subsections (3) and (4) of this section, the court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of its order, for up to one year and impose conditions upon the defendant the court deems appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate for administrative processing. If at the end of the deferral period the defendant has met all conditions and has not been determined to have committed another traffic infraction, the court may dismiss the infraction.

(b) A person may not receive more than one deferral within a seven-year period for traffic infractions for moving violations and more than one deferral within a seven-year period for traffic infractions for nonmoving violations.

(c) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation may not receive a deferral under this section.

(6) If any person issued a notice of traffic infraction:



(a) Fails to respond to the notice of traffic infraction as provided in subsection (2) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section;

the court shall enter an appropriate order assessing the monetary penalty prescribed for the traffic infraction and any other penalty authorized by this chapter and shall notify the department in accordance with RCW 46.20.270, of the failure to respond to the notice of infraction or to appear at a requested hearing.

Passed by the Senate March 7, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 328

[Substitute Senate Bill 6555]

### SPECIAL PURPOSE DISTRICTS

AN ACT Relating to research and services for special purpose districts; amending RCW 66.08.190; adding new sections to chapter 43.110 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 43.110 RCW to read as follows:

(1) The municipal research council shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of council members is qualified to provide such research and services.

(2) Research and services to special purpose districts shall consist of: (a) Studying and researching issues relating to special purpose district government; (b) acquiring, preparing, and distributing publications related to special purpose districts; and (c) furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

(3) The activities, programs, and services of the municipal research council to special purpose districts shall be carried on in cooperation with the associations representing the various special purpose districts. Services to special purpose districts shall be based upon the moneys appropriated to the municipal research council from the special purpose district research services account under section 2 of this act.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.110 RCW to read as follows:

A special account is created in the state treasury to be known as the special purpose district research services account. The account shall consist of all money transferred or appropriated to the account by the legislature. Moneys in the account may be spent only after appropriation. The account is subject to the allotment process under chapter 43.88 RCW.

Moneys in the special purpose district research services account may be expended only to finance the costs of special purpose district research and services.

*\*Sec. 3. RCW 66.08.190 and 2003 1st sp.s. c 25 s 927 are each amended to read as follows:*

*(1) Except for revenues generated by the 2003 surcharge of \$0.42/liter on retail sales of spirits that shall be distributed to the state general fund during the 2003-2005 biennium, when excess funds are distributed, all moneys subject to distribution shall be disbursed as follows:*

*(a) Three-tenths of one percent to border areas under RCW 66.08.195; and*

*(b) From the amount remaining after distribution under (a) of this subsection, (i) fifty percent to the general fund of the state, (ii) ten percent to the counties of the state, and (iii) forty percent to the incorporated cities and towns of the state.*

*(2) During the months of June, September, December, and March of each year, prior to disbursing the distribution to incorporated cities and towns under subsection (1)(b) of this section, the treasurer shall deduct from that distribution an amount that will fund that quarter's allotments under RCW 43.88.110 from any legislative appropriation from the city and town research services account. The treasurer shall deposit the amount deducted into the city and town research services account.*

*(3) During the months of June, September, December, and March of each year, prior to disbursing the distribution to the general fund of the state under subsection (1)(b) of this section, the treasurer shall deduct from that distribution an amount that will fund that quarter's allotments under RCW 43.88.110 from any legislative appropriation from the special purpose district research services account. The treasurer shall deposit the amount deducted into the special purpose district research services account.*

*(4) The governor may notify and direct the state treasurer to withhold the revenues to which the counties and cities are entitled under this section if the counties or cities are found to be in noncompliance pursuant to RCW 36.70A.340.*

*\*Sec. 3 was vetoed. See message at end of chapter.*

**NEW SECTION. Sec. 4.** By June 30, 2010, the municipal research council shall prepare a report on services provided to special purpose districts under section 1 of this act, and shall provide this report to the joint legislative audit and review committee.

Passed by the Senate March 4, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 29, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 29, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 3, Substitute Senate Bill No. 6555 entitled:

"AN ACT Relating to research and services for special purpose districts."

This bill would allow the Municipal Research Council (MRC) to contract for the provision of research and services to special purpose districts. Funding for these services would be provided through a change in the distribution of Liquor Revolving Fund revenues.

The MRC currently provides its services to cities and counties. Those services are funded with revenues from the Liquor Revolving Fund and Liquor Excise Tax Account, revenues that would otherwise be distributed to cities and counties on a formula basis. While the technical assistance provided by MRC may be of value, SSB No. 6555 would set a precedent by redirecting funds, that would otherwise go to the state General Fund, for the benefit of a special purpose district.

Therefore, I have decided to veto Section 3 of this bill, which establishes the transfer of those funds. Sections 1 and 2 concern the authority for special purpose districts to use the MRC, and the creation of the new account should the legislature choose to appropriate funds for it. Section 4 requires a MRC report to Joint Legislative Audit and Review Committee in 2010.

For these reasons, I have vetoed Section 3 of Substitute Senate Bill No. 6555.

With the exception of Section 3, Substitute Senate Bill No. 6555 is approved."

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## CHAPTER 329

[Engrossed Substitute Senate Bill 6566]

### COMMUTE TRIP REDUCTION

AN ACT Relating to commute trip reduction; amending RCW 70.94.524, 70.94.527, 70.94.531, 70.94.534, 70.94.537, 70.94.541, 70.94.544, 70.94.547, and 70.94.551; and adding new sections to chapter 70.94 RCW.

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

**Sec. 1.** RCW 70.94.524 and 1991 c 202 s 11 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year.

(2) "Major worksite" means a building or group of buildings that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights of way, and at which there are one hundred or more full-time employees (~~(of one or more employers)~~), who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months.

(3) (~~"Commuter trip reduction zones" mean areas, such as census tracts or combinations of census tracts, within a jurisdiction that are characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities, and other factors that are determined to affect the level of single occupancy vehicle commuting.~~

~~(4))~~ "Major employment installation" means a military base or federal reservation, excluding tribal reservations, at which there are one hundred or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months during the year.

(4) "Person hours of delay" means the daily person hours of delay per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated using the best available methodology by the department of transportation.

(5) "Commute trip" means trips made from a worker's home to a worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

~~((5))~~ (6) "Proportion of single-occupant vehicle commute trips" means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

~~((6))~~ (7) "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

~~((7))~~ (8) "Base year" means the ~~(year January 1, 1992, through December 31, 1992, on which goals for vehicle miles traveled and single-occupant vehicle trips shall be based. Base year goals may be determined using the 1990 journey-to-work census data projected to the year 1992 and shall be consistent with the growth management act. The task force shall establish a method to be used by jurisdictions to determine reductions of vehicle miles traveled)~~ twelve-month period commencing when a major employer is determined to be participating by the local jurisdiction, on which commute trip reduction goals shall be based.

(9) "Growth and transportation efficiency center" means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a growth and transportation efficiency center must meet minimum criteria established by the commute trip reduction board under RCW 70.94.537, and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

(10)(a) "Affected urban growth area" means:

(i) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, and any contiguous urban growth areas; and

(ii) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas.

(b) Affected urban growth areas will be listed by the department of transportation in the rules for this act using the criteria identified in (a) of this subsection.

(11) "Certification" means a determination by a regional transportation planning organization that a locally designated growth and transportation efficiency center program meets the minimum criteria developed in a collaborative regional process and the rules established by the department of transportation.

**Sec. 2.** RCW 70.94.527 and 1997 c 250 s 2 are each amended to read as follows:

~~(1) Each county (with a population over one hundred fifty thousand, and each city or town within those counties containing a major employer shall, by October 1, 1992, adopt by ordinance and implement a commute trip reduction plan for all major employers. The plan shall be developed in cooperation with local transit agencies, regional transportation planning organizations as~~

established in RCW 47.80.020, major employers, and the owners of and employers at major worksites)) containing an urban growth area, designated pursuant to RCW 36.70A.110, and each city within an urban growth area with a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, as well as those counties and cities located in any contiguous urban growth areas, shall adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions located within an urban growth area with a population greater than seventy thousand that adopted a commute trip reduction ordinance before the year 2000, as well as any jurisdiction within contiguous urban growth areas, shall also adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions containing a major employment installation in a county with an affected growth area, designated pursuant to RCW 36.70A.110, shall adopt a commute trip reduction plan and ordinance for major employers in the major employment installation by a date specified by the commute trip reduction board. The ordinance shall establish the requirements for major employers and provide an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of the ordinance, may obtain waiver or modification of those requirements. The plan shall be designed to achieve reductions in the proportion of single-occupant vehicle commute trips and ~~((the commute trip vehicle miles traveled per employee by employees of major public and private sector employers in the jurisdiction))~~ be consistent with the rules established by the department of transportation. The county, city, or town shall submit its adopted plan to the regional transportation planning organization. The county, city, or town plan shall be included in the regional commute trip reduction plan for regional transportation planning purposes, consistent with the rules established by the department of transportation in RCW 70.94.537.

(2) All other counties, ~~((and))~~ cities, and towns ~~((in those counties,))~~ may adopt and implement a commute trip reduction plan consistent with department of transportation rules established under RCW 70.94.537. Tribal governments are encouraged to adopt a commute trip reduction plan for their lands. State investment in voluntary commute trip reduction plans shall be limited to those areas that meet criteria developed by the commute trip reduction board.

(3) The department of ecology may, after consultation with the department of transportation, as part of the state implementation plan for areas that do not attain the national ambient air quality standards for carbon monoxide or ozone, require municipalities other than those identified in subsection (1) of this section to adopt and implement commute trip reduction plans if the department determines that such plans are necessary for attainment of said standards.

(4) A commute trip reduction plan shall be consistent with the ~~((guidelines))~~ rules established under RCW 70.94.537 and shall include but is not limited to (a) goals for reductions in the proportion of single-occupant vehicle commute trips ~~((and the commute trip vehicle miles traveled per employee))~~ consistent with the state goals established by the commute trip reduction board under RCW 70.94.537 and the regional commute trip reduction plan goals established in the regional commute trip reduction plan; (b) ~~((designation of commute trip~~

~~reduction zones; (e)) a description of the requirements for major public and private sector employers to implement commute trip reduction programs; ((d)) (c) a commute trip reduction program for employees of the county, city, or town; ((e) a review of local parking policies and ordinances as they relate to employers and major worksites and any revisions necessary to comply with commute trip reduction goals and guidelines; (f) an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain waiver or modification of those requirements; and (g)) and (d) means, consistent with rules established by the department of transportation, for determining base year values ((of the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee)) and progress toward meeting commute trip reduction plan goals ((on an annual basis. Goals which are established shall take into account existing transportation demand management efforts which are made by major employers. Each jurisdiction shall ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year. The goals for miles traveled per employee for all major employers shall not be less than a fifteen percent reduction from the worksite base year value or the base year value for the commute trip reduction zone in which their worksite is located by January 1, 1995, twenty percent reduction from the base year values by January 1, 1997, twenty five percent reduction from the base year values by January 1, 1999, and a thirty five percent reduction from the base year values by January 1, 2005.~~

~~(5) A county, city, or town may, as part of its commute trip reduction plan, require commute trip reduction programs for employers with ten or more full time employees at major worksites in federally designated nonattainment areas for carbon monoxide and ozone. The county, city or town shall develop the programs in cooperation with affected employers and provide technical assistance to the employers in implementing such programs)). The plan shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.~~

~~((6)) (5) The commute trip reduction plans adopted by counties, cities, and towns under this chapter shall be consistent with and may be incorporated in applicable state or regional transportation plans and local comprehensive plans and shall be coordinated, and consistent with, the commute trip reduction plans of counties, cities, or towns with which the county, city, or town has, in part, common borders or related regional issues. Such regional issues shall include assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction. Counties, cities, ((6)) and towns adopting commute trip reduction plans may enter into agreements through the interlocal cooperation act or by resolution or ordinance as appropriate with other jurisdictions, local transit agencies, transportation management associations or other private or nonprofit providers of transportation services, or regional transportation planning organizations to coordinate the development and implementation of such plans. Transit agencies shall work with counties, cities, and towns as a part of their six-year transit~~

development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services. Counties, cities, or towns adopting a commute trip reduction plan shall review it annually and revise it as necessary to be consistent with applicable plans developed under RCW 36.70A.070. Regional transportation planning organizations shall review the local commute trip reduction plans during the development and update of the regional commute trip reduction plan.

(6) Each affected regional transportation planning organization shall adopt a commute trip reduction plan for its region consistent with the rules and deadline established by the department of transportation under RCW 70.94.537. The plan shall include, but is not limited to: (a) Regional program goals for commute trip reduction in urban growth areas and all designated growth and transportation efficiency centers; (b) a description of strategies for achieving the goals; (c) a sustainable financial plan describing projected revenues and expenditures to meet the goals; (d) a description of the way in which progress toward meeting the goals will be measured; and (e) minimum criteria for growth and transportation efficiency centers. (i) Regional transportation planning organizations shall review proposals from local jurisdictions to designate growth and transportation efficiency centers and shall determine whether the proposed growth and transportation efficiency center is consistent with the criteria defined in the regional commute trip reduction plan. (ii) Growth and transportation efficiency centers certified as consistent with the minimum requirements by the regional transportation planning organization shall be identified in subsequent updates of the regional commute trip reduction plan. These plans shall be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region. The plan will be reviewed and approved by commute trip reduction board as established under RCW 70.94.537. Regions without an approved regional commute trip reduction plan shall not be eligible for state commute trip reduction program funds.

The regional commute trip reduction plan shall be consistent with and incorporated into transportation demand management components in the regional transportation plan as required by RCW 47.80.030.

(7) Each ~~((county, city, or town))~~ regional transportation planning organization implementing a regional commute trip reduction program shall, ~~((within thirty days submit a summary of its plan along with certification of adoption))~~ consistent with the rules and deadline established by the department of transportation, submit its plan as well as any related local commute trip reduction plans and certified growth and transportation efficiency center programs, to the commute trip reduction ~~((task force))~~ board established under RCW 70.94.537. The commute trip reduction board shall review the regional commute trip reduction plan and the local commute trip reduction plans. The regional transportation planning organization shall collaborate with the commute trip reduction board to evaluate the consistency of local commute trip reduction plans with the regional commute trip reduction plan. Local and regional plans must be approved by the commute trip reduction board in order to be eligible for state funding provided for the purposes of this chapter.

(8) Each ~~((county, city, or town))~~ regional transportation planning organization implementing a regional commute trip reduction program shall

submit an annual progress report to the commute trip reduction ~~((task force))~~ board established under RCW 70.94.537. The report shall be due ~~((July 1, 1994, and each July 1st thereafter through July 1, 2006))~~ at the end of each state fiscal year for which the program has been implemented. The report shall describe progress in attaining the applicable commute trip reduction goals ~~((for each commute trip reduction zone))~~ and shall highlight any problems being encountered in achieving the goals. The information shall be reported in a form established by the commute trip reduction ~~((task force))~~ board.

(9) Any waivers or modifications of the requirements of a commute trip reduction plan granted by a jurisdiction shall be submitted for review to the commute trip reduction ~~((task force))~~ board established under RCW 70.94.537. The commute trip reduction ~~((task force))~~ board may not deny the granting of a waiver or modification of the requirements of a commute trip reduction plan by a jurisdiction but they may notify the jurisdiction of any comments or objections.

~~(10) ((Each county, city, or town implementing a commute trip reduction program shall count commute trips eliminated through work at home options or alternate work schedules as one and two tenths vehicle trips eliminated for the purpose of meeting trip reduction goals.~~

~~(11) Each county, city, or town implementing a commute trip reduction program shall ensure that employers that have modified their employees' work schedules so that some or all employees are not scheduled to arrive at work between 6:00 a.m. and 9:00 a.m. are provided credit when calculating single-occupancy vehicle use and vehicle miles traveled at that worksite. This credit shall be awarded if implementation of the schedule change was an identified element in that worksite's approved commute trip reduction program or if the schedule change occurred because of impacts associated with chapter 36.70A RCW, the growth management act.~~

~~(12))~~ Plans implemented under this section shall not apply to commute trips for seasonal agricultural employees.

~~((13))~~ (11) Plans implemented under this section shall not apply to construction worksites when the expected duration of the construction project is less than two years.

(12) If an affected urban growth area has not previously implemented a commute trip reduction program and the state has funded solutions to state highway deficiencies to address the area's exceeding the person hours of delay threshold, the affected urban growth area shall be exempt from the duties of this section for a period not exceeding two years.

NEW SECTION. Sec. 3. A new section is added to chapter 70.94 RCW to read as follows:

Nothing in this act preempts the ability of state employees to collectively bargain over commute trip reduction issues, including parking fees under chapter 41.80 RCW, or the ability of private sector employees to collectively bargain over commute trip reduction issues if previously such issues were mandatory subjects of collective bargaining.

NEW SECTION. Sec. 4. A new section is added to chapter 70.94 RCW to read as follows:

(1) A county, city, or town may, as part of its commute trip reduction plan, designate existing activity centers listed in its comprehensive plan or new



activity centers as growth and transportation efficiency centers and establish a transportation demand management program in the designated area.

(a) The transportation demand management program for the growth and transportation efficiency center shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(b) In order to be eligible for state funding provided for the purposes of this section, designated growth and transportation efficiency centers shall be certified by the applicable regional transportation organization to: (i) Meet the minimum land use and transportation criteria established in collaboration among local jurisdictions, transit agencies, the regional transportation planning organization, and other interested parties as part of the regional commute trip reduction plan; and (ii) have established a transportation demand management program that includes the elements identified in (c) of this subsection and is consistent with the rules established by the department of transportation in RCW 70.94.537(2). If a designated growth and transportation efficiency center is denied certification, the local jurisdiction may appeal the decision to the commute trip reduction board.

(c) Transportation demand management programs for growth and transportation efficiency centers shall include, but are not limited to: (i) Goals for reductions in the proportion of single-occupant vehicle trips that are more aggressive than the state program goal established by the commute trip reduction board; (ii) a sustainable financial plan demonstrating how the program can be implemented to meet state and regional trip reduction goals, indicating resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommending any innovative financing techniques consistent with chapter 47.29 RCW, including public/private partnerships, to finance needed facilities, services, and programs; (iii) a proposed organizational structure for implementing the program; (iv) a proposal to measure performance toward the goal and implementation progress; and (v) an evaluation to which local land use and transportation policies apply, including parking policies and ordinances, to determine the extent that they complement and support the trip reduction investments of major employers. Each of these program elements shall be consistent with the rules established under RCW 70.94.537.

(d) A designated growth and transportation efficiency center shall be consistent with the land use and transportation elements of the local comprehensive plan.

(e) Transit agencies, local governments, and regional transportation planning organizations shall identify certified growth and transportation efficiency centers as priority areas for new service and facility investments in their respective investment plans.

(2) A county, city, or town that has established a growth and transportation efficiency center program shall support vehicle trip reduction activities in the designated area. The implementing jurisdiction shall adopt policies, ordinances, and funding strategies that will lead to attainment of program goals in those areas.

**Sec. 5.** RCW 70.94.531 and 1997 c 250 s 3 are each amended to read as follows:

(1) State agency worksites are subject to the same requirements under this section and RCW 70.94.534 as private employers.

(2) Not more than ~~((six months))~~ ninety days after the adoption of ~~((the))~~ a jurisdiction's commute trip reduction plan ~~((by a jurisdiction))~~, each major employer in that jurisdiction shall perform a baseline measurement consistent with the rules established by the department of transportation under RCW 70.94.537. Not more than ninety days after receiving the results of the baseline measurement, each major employer shall develop a commute trip reduction program and shall submit a description of that program to the jurisdiction for review. The program shall be implemented not more than ~~((six months))~~ ninety days after ~~((submission to))~~ approval by the jurisdiction.

~~((2))~~ (3) A commute trip reduction program of a major employer shall consist of, at a minimum (a) designation of a transportation coordinator and the display of the name, location, and telephone number of the coordinator in a prominent manner at each affected worksite; (b) regular distribution of information to employees regarding alternatives to single-occupant vehicle commuting; (c) ~~((an annual))~~ a regular review of employee commuting and reporting of progress toward meeting the single-occupant vehicle reduction goals to the county, city, or town consistent with the method established in the commute trip reduction plan and the rules established by the department of transportation under RCW 70.94.537; and (d) implementation of a set of measures designed to achieve the applicable commute trip reduction goals adopted by the jurisdiction. Such measures may include but are not limited to:

- (i) Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles;
- (ii) Instituting or increasing parking charges for single-occupant vehicles;
- (iii) Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;
- (iv) Provision of subsidies for transit fares;
- (v) Provision of vans for van pools;
- (vi) Provision of subsidies for car pooling or van pooling;
- (vii) Permitting the use of the employer's vehicles for car pooling or van pooling;
- (viii) Permitting flexible work schedules to facilitate employees' use of transit, car pools, or van pools;
- (ix) Cooperation with transportation providers to provide additional regular or express service to the worksite;
- (x) Construction of special loading and unloading facilities for transit, car pool, and van pool users;
- (xi) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;
- (xii) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facility;
- (xiii) Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes;
- (xiv) Establishment of a program of alternative work schedules such as compressed work week schedules which reduce commuting; and

(xv) Implementation of other measures designed to facilitate the use of high-occupancy vehicles such as on-site day care facilities and emergency taxi services.

~~((3))~~ (4) Employers or owners of worksites may form or utilize existing transportation management associations or other transportation-related associations authorized by RCW 35.87A.010 to assist members in developing and implementing commute trip reduction programs.

~~((4))~~ (5) Employers shall make a good faith effort towards achievement of the goals identified in RCW 70.94.527(4)~~((g))~~ (d).

**Sec. 6.** RCW 70.94.534 and 1997 c 250 s 4 are each amended to read as follows:

(1) Each jurisdiction implementing a commute trip reduction plan under this chapter or as part of a plan or ordinance developed under RCW 36.70A.070 shall review each employer's initial commute trip reduction program to determine if the program is likely to meet the applicable commute trip reduction goals. The employer shall be notified by the jurisdiction of its findings. If the jurisdiction finds that the program is not likely to meet the applicable commute trip reduction goals, the jurisdiction will work with the employer to modify the program as necessary. The jurisdiction shall complete review of each employer's initial commute trip reduction program within ~~((three months))~~ ninety days of receipt.

(2) Employers implementing commute trip reduction programs are expected to undertake good faith efforts to achieve the goals outlined in RCW 70.94.527(4). Employers are considered to be making a good faith effort if the following conditions have been met:

(a) The employer has met the minimum requirements identified in RCW 70.94.531; ~~((and))~~

(b) The employer has notified the jurisdiction of its intent to substantially change or modify its program and has either received the approval of the jurisdiction to do so or has acknowledged that its program may not be approved without additional modifications;

(c) The employer has provided adequate information and documentation of implementation when requested by the jurisdiction; and

(d) The employer is working collaboratively with its jurisdiction to continue its existing program or is developing and implementing program modifications likely to result in improvements to the program over an agreed upon length of time.

(3) Each jurisdiction shall ~~((annually))~~ review at least once every two years each employer's progress and good faith efforts toward meeting the applicable commute trip reduction goals. If an employer makes a good faith effort, as defined in this section, but is not likely to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to make modifications to the commute trip reduction program. Failure of an employer to reach the applicable commute trip reduction goals is not a violation of this chapter.

(4) If an employer fails to make a good faith effort and fails to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to propose modifications to the program and shall direct the employer to revise its program within thirty days to incorporate

those modifications or modifications which the jurisdiction determines to be equivalent.

(5) Each jurisdiction implementing a commute trip reduction plan pursuant to this chapter may impose civil penalties, in the manner provided in chapter 7.80 RCW, for failure by an employer to implement a commute trip reduction program or to modify its commute trip reduction program as required in subsection (4) of this section. No major employer may be held liable for civil penalties for failure to reach the applicable commute trip reduction goals. No major employer shall be liable for civil penalties under this chapter if failure to achieve a commute trip reduction program goal was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith.

(6) Jurisdictions shall notify major employers of the procedures for applying for goal modification or exemption from the commute trip reduction requirements based on the guidelines established by the commute trip reduction ~~((task force))~~ board authorized under RCW 70.94.537.

**Sec. 7.** RCW 70.94.537 and 1997 c 250 s 5 are each amended to read as follows:

(1) A ~~((twenty eight))~~ sixteen member state commute trip reduction ~~((task force))~~ board is established as follows:

(a) The secretary of the department of transportation or the secretary's designee who shall serve as chair;

(b) ~~((The director of the department of ecology or the director's designee;~~

~~(e) The director of the department of community, trade, and economic development or the director's designee;~~

~~(d) The director of the department of general administration or the director's designee;~~

~~(e) Three representatives from))~~ One representative from the office of the governor or the governor's designee;

(c) The director or the director's designee of one of the following agencies, to be determined by the governor:

(i) Department of general administration;

(ii) Department of ecology;

(iii) Department of community, trade, and economic development;

(d) Three representatives from cities and towns or counties appointed by the governor for staggered four-year terms from a list ~~((of at least six))~~ recommended by the association of Washington cities or the Washington state association of counties;

~~((f) Three representatives from cities and towns appointed by the governor from a list of at least six recommended by the association of Washington cities;~~

~~(g) Three))~~ (e) Two representatives from transit agencies appointed by the governor for staggered four-year terms from a list ~~((of at least six))~~ recommended by the Washington state transit association;

~~((h) Twelve))~~ (f) Two representatives from participating regional transportation planning organizations appointed by the governor for staggered four-year terms;

(g) Four representatives of employers at or owners of major worksites in Washington, or transportation management associations, business improvement areas, or other transportation organizations representing employers, appointed

by the governor ~~((from a list recommended by the association of Washington business or other statewide business associations representing major employers, provided that every affected county shall have at least one representative; and~~

~~(i) Three)) for staggered four-year terms; and~~

~~(h) Two citizens appointed by the governor for staggered four-year terms.~~

Members of the commute trip reduction ~~((task force))~~ board shall serve without compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members appointed by the governor shall be compensated in accordance with RCW 43.03.220. The ~~((task force))~~ board has all powers necessary to carry out its duties as prescribed by this chapter. ~~((The task force shall be dissolved on July 1, 2006.))~~

(2) By March 1, ~~((1992))~~ 2007, the ~~((commute trip reduction task force))~~ department of transportation shall establish ~~((guidelines))~~ rules for commute trip reduction plans and implementation procedures. The commute trip reduction board shall advise the department on the content of the rules. The ~~((guidelines))~~ rules are intended to ensure consistency in commute trip reduction plans and goals among jurisdictions while fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the ~~((task force))~~ board determines to be relevant. The ~~((guidelines))~~ rules shall include:

(a) Guidance criteria for ~~((establishing commute trip reduction zones))~~ growth and transportation efficiency centers;

(b) ~~((Methods and information requirements for determining base year values of the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee))~~ Data measurement methods and procedures for determining the efficacy of commute trip reduction activities and progress toward meeting commute trip reduction plan goals;

(c) Model commute trip reduction ordinances;

(d) Methods for assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction;

(e) An appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain a waiver or modification of those requirements and criteria for determining eligibility for waiver or modification;

(f) ~~((Methods to ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year;~~

~~(g) Alternative commute trip reduction goals for major employers which cannot meet the goals of this chapter because of the unique nature of their business;~~

~~(h) Alternative commute trip reduction goals for major employers whose worksites change and who contribute substantially to traffic congestion in a trip reduction zone; and~~

~~(i) Methods to insure that employers receive credit for scheduling changes enacted pursuant to the criteria identified in RCW 70.94.527(11).~~

~~(3))~~ Establishment of a process for determining the state's affected areas, including criteria and procedures for regional transportation planning organizations in consultation with local jurisdictions to propose to add or exempt urban growth areas;

(g) Listing of the affected areas of the program to be done every four years as identified in subsection (5) of this section;

(h) Establishment of a criteria and application process to determine whether jurisdictions that voluntarily implement commute trip reduction are eligible for state funding;

(i) Guidelines and deadlines for creating and updating local commute trip reduction plans, including guidance to ensure consistency between the local commute trip reduction plan and the transportation demand management strategies identified in the transportation element in the local comprehensive plan, as required by RCW 36.70A.070.

(j) Guidelines for creating and updating regional commute trip reduction plans, including guidance to ensure the regional commute trip reduction plan is consistent with and incorporated into transportation demand management components in the regional transportation plan;

(k) Methods for regional transportation planning organizations to evaluate and certify that designated growth and transportation efficiency center programs meet the minimum requirements and are eligible for funding;

(l) Guidelines for creating and updating growth and transportation efficiency center programs; and

(m) Establishment of statewide program goals. The goals shall be designed to achieve substantial reductions in the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee, at a level that is projected to improve the mobility of people and goods by increasing the efficiency of the state highway system.

(3) The board shall create a state commute trip reduction plan that shall be updated every four years as discussed in subsection (5) of this section. The state commute trip reduction plan shall include, but is not limited to: (a) Statewide commute trip reduction program goals that are designed to substantially improve the mobility of people and goods; (b) identification of strategies at the state and regional levels to achieve the goals and recommendations for how transportation demand management strategies can be targeted most effectively to support commute trip reduction program goals; (c) performance measures for assessing the cost-effectiveness of commute trip reduction strategies and the benefits for the state transportation system; and (d) a sustainable financial plan. The board shall review and approve regional commute trip reduction plans, and work collaboratively with regional transportation planning organizations in the establishment of the state commute trip reduction plan.

(4) The ~~((task force))~~ board shall work with affected jurisdictions, major employers, and other parties to develop and implement a public awareness campaign designed to increase the effectiveness of local commute trip reduction programs and support achievement of the objectives identified in this chapter.

~~((4) The task force shall assess the commute trip reduction options available to employers other than major employers and make recommendations to the legislature by October 1, 1992. The recommendations shall include the minimum size of employer who shall be required to implement trip reduction~~

~~programs and the appropriate methods those employers can use to accomplish trip reduction goals:)~~

(5) The board shall evaluate and update the commute trip reduction program plan and recommend changes to the rules every four years, with the first assessment report due July 1, 2011, to ensure that the latest data methodology used by the department of transportation is incorporated into the program and to determine which areas of the state should be affected by the program. The board shall review the definition of a major employer no later than December 1, 2009. The board shall regularly identify urban growth areas that are projected to be affected by this act in the next four-year period and may provide advance planning support to the potentially affected jurisdictions.

(6) ~~The ((task force)) board shall review progress toward implementing commute trip reduction plans and programs and the costs and benefits of commute trip reduction plans and programs and shall make recommendations to the legislature and the governor by December 1, ((1995, December 1, 1999, December 1, 2001, December 1, 2003, and December 1, 2005)) 2009, and every two years thereafter. In assessing the costs and benefits, the ((task force)) board shall consider the costs of not having implemented commute trip reduction plans and programs with the assistance of the transportation performance audit board authorized under chapter 44.75 RCW. The ((task force)) board shall examine other transportation demand management programs nationally and incorporate its findings into its recommendations to the legislature. The recommendations shall address the need for continuation, modification, or termination or any or all requirements of this chapter. ((The recommendations made December 1, 1995, shall include recommendations regarding extension of the requirements of this chapter to employers with fifty or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous months:))~~

(7) The board shall invite personnel with appropriate expertise from state, regional, and local government, private, public, and nonprofit providers of transportation services, and employers or owners of major worksites in Washington to act as a technical advisory group. The technical advisory group shall advise the board on the implementation of local and regional commute trip reduction plans and programs, program evaluation, program funding allocations, and state rules and guidelines.

**Sec. 8.** RCW 70.94.541 and 1996 c 186 s 515 are each amended to read as follows:

(1) ~~((A technical assistance team shall be established under the direction of the department of transportation and include representatives of the department of ecology:)) The ((team)) department of transportation shall provide staff support to the commute trip reduction ((task force)) board in carrying out the requirements of RCW 70.94.537 ((and to the department of general administration in carrying out the requirements of RCW 70.94.551)).~~

(2) The ~~((team))~~ department of transportation shall provide technical assistance to regional transportation planning organizations, counties, cities, and towns, the department of general administration, other state agencies, and other employers in developing and implementing commute trip reduction plans and programs. The technical assistance shall include: (a) Guidance in ~~((determining base and subsequent year values of single-occupant vehicle commuting~~

~~proportion and commute trip reduction vehicle miles traveled to be used in determining progress in attaining plan goals))~~ single measurement methodology and practice to be used in determining progress in attaining plan goals; (b) developing model plans and programs appropriate to different situations; and (c) providing consistent training and informational materials for the implementation of commute trip reduction programs. Model plans and programs, training, and informational materials shall be developed in cooperation with representatives of regional transportation planning organizations, local governments, transit agencies, and employers.

(3) In carrying out this section the department of transportation may contract with statewide associations representing cities, towns, and counties to assist cities, towns, and counties in implementing commute trip reduction plans and programs.

**Sec. 9.** RCW 70.94.544 and 2001 c 74 s 1 are each amended to read as follows:

A portion of the funds made available for the purposes of this chapter shall be used to fund the commute trip reduction ~~((task force))~~ board in carrying out the responsibilities of RCW ~~((70.94.544))~~ 70.94.537, and the ~~((interagency technical assistance team))~~ department of transportation, including the activities authorized under RCW 70.94.541(2), and to assist regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. The commute trip reduction board shall determine the allocation of program funds made available for the purposes of this chapter to regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. If state funds for the purposes of this chapter are provided to those jurisdictions implementing voluntary commute trip reduction plans, the funds shall be disbursed based on criteria established by the commute trip reduction board under RCW 70.94.537.

**Sec. 10.** RCW 70.94.547 and 1991 c 202 s 18 are each amended to read as follows:

The legislature hereby recognizes the state's crucial leadership role in establishing and implementing effective commute trip reduction programs. Therefore, it is the policy of the state that the department of general administration and other state agencies, including institutions of higher education, shall aggressively develop substantive programs to reduce commute trips by state employees. Implementation of these programs will reduce energy consumption, congestion in urban areas, and air and water pollution associated with automobile travel.

**Sec. 11.** RCW 70.94.551 and 1997 c 250 s 6 are each amended to read as follows:

(1) The director of ~~((general administration, with the concurrence of an interagency task force established for the purposes of this section, shall coordinate a commute trip reduction plan for state agencies which are phase 1 major employers by January 1, 1993))~~ the department of general administration may coordinate an interagency board for the purpose of developing policies or guidelines that promote consistency among state agency commute trip reduction programs required by RCW 70.94.527 and 70.94.531. The ~~((task force))~~ board shall include representatives of the departments of transportation ~~((and)),~~



ecology, and community, trade, and economic development and such other departments and interested groups as the director of the department of general administration determines to be necessary ~~((to be generally representative of state agencies. The state agency plan shall be consistent with the requirements of RCW 70.94.527 and 70.94.531 and shall be developed in consultation with state employees, local and regional governments, local transit agencies, the business community, and other interested groups. The plan shall consider and recommend)).~~ Policies and guidelines shall be applicable to all state agencies including but not limited to policies and guidelines regarding parking and parking charges, employee incentives for commuting by other than single-occupant automobiles, flexible and alternative work schedules, alternative worksites, and the use of state-owned vehicles for car and van pools and guaranteed rides home. The ~~((plan))~~ policies and guidelines shall also consider the costs and benefits to state agencies of achieving commute trip reductions and consider mechanisms for funding state agency commute trip reduction programs. ~~((The department shall, within thirty days, submit a summary of its plan along with certification of adoption to the commute trip reduction task force established under RCW 70.94.537.))~~

~~((2))~~ ~~((Not more than three months after the adoption of the commute trip reduction plan, each state agency shall, for each facility which is a major employer, develop a commute trip reduction program. The program shall be designed to meet the goals of the commute trip reduction plan of the county, city, or town or, if there is no local commute trip reduction plan, the state. The program shall be consistent with the policies of the state commute trip reduction plan and RCW 70.94.531. The agency shall submit a description of that program to the local jurisdiction implementing a commute trip reduction plan or, if there is no local commute trip reduction plan, to the department of general administration. The program shall be implemented not more than three months after submission to the department. Annual reports required in RCW 70.94.531(2)(c) shall be submitted to the local jurisdiction implementing a commute trip reduction plan and to the department of general administration. An agency which is not meeting the applicable commute trip reduction goals shall, to the extent possible, modify its program to comply with the recommendations of the local jurisdiction or the department of general administration.~~

~~((3))~~ ~~((State agencies sharing a common location ((may)) in affected urban growth areas where the total number of state employees is one hundred or more shall, with assistance from the department of general administration, develop and implement a joint commute trip reduction program ((or may delegate the development and implementation of the commute trip reduction program to the department of general administration)). The worksite shall be treated as specified in RCW 70.94.531 and 70.94.534.~~

~~((4))~~ ~~((3))~~ The department of general administration ~~((in consultation with the state technical assistance team))~~ shall review the initial commute trip reduction program of each state agency subject to the commute trip reduction plan for state agencies to determine if the program is likely to meet the applicable commute trip reduction goals and notify the agency of any deficiencies. If it is found that the program is not likely to meet the applicable

commute trip reduction goals, the ~~((team))~~ department of general administration will work with the agency to modify the program as necessary.

~~((5))~~ For each agency subject to the state agency commute trip reduction plan, the department of general administration in consultation with the technical assistance team shall annually review progress toward meeting the applicable commute trip reduction goals. If it appears an agency is not meeting or is not likely to meet the applicable commute trip reduction goals, the team shall work with the agency to make modifications to the commute trip reduction program.

~~(6))~~ (4) Each state agency implementing a commute trip reduction plan shall report at least once per year to its agency director on the performance of the agency's commute trip reduction program as part of the agency's quality management, accountability, and performance system as defined by RCW 43.17.385. The reports shall assess the performance of the program, progress toward state goals established under RCW 70.94.537, and recommendations for improving the program.

(5) The department of general administration shall review the agency performance reports defined in subsection (4) of this section and submit ~~((an annual progress))~~ a biennial report for state agencies subject to ~~((the state agency commute trip reduction plan to the commute trip reduction task force established under RCW 70.94.537. The report shall be due April 1, 1993, and each April 1st through 2006. The report shall report progress in attaining the applicable commute trip reduction goals for each commute trip reduction zone and shall highlight any problems being encountered in achieving the goals))~~ this chapter to the governor and incorporate the report in the commute trip reduction board report to the legislature as directed in RCW 70.94.537(6). The report shall include, but is not limited to, an evaluation of the most recent measurement results, progress toward state goals established under RCW 70.94.537, and recommendations for improving the performance of state agency commute trip reduction programs. The information shall be reported in a form established by the commute trip reduction ~~((task force))~~ board.

Passed by the Senate March 8, 2006.

Passed by the House March 8, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 330

[Engrossed Senate Bill 6661]

### WASHINGTON BEER COMMISSION

AN ACT Relating to establishing the Washington beer commission; amending RCW 66.44.800, 15.04.200, 42.17.31907, 42.56.380, and 43.23.033; reenacting and amending RCW 66.28.010; adding a new section to chapter 66.12 RCW; adding a new chapter to Title 15 RCW; providing an effective date; and providing an expiration date.

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

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

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy;

(2) The sale in this state and export to other states and abroad of beer made in this state contribute substantial benefits to the economy of the state and provide a large number of jobs and sizeable tax revenues;

(3) The production of beer in this state is a new and important segment of Washington agriculture that has potential for greater contribution to the economy of the state if it undergoes continued development; and

(4) The general welfare of the people of this state will be served by continued development of the activities of the production of beer, that will improve the tax bases of local communities where agricultural land and processing facilities are located, and reduce the need for state and federal funding of local services. The industries are therefore affected with the public interest.

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

(1) "Affected producer" means any producer who is subject to this chapter.

(2) "Beer" means any malt beverage or malt liquor as the terms are defined in chapter 66.04 RCW.

(3) "Commission" means the Washington beer commission.

(4) "Department" means the department of agriculture.

(5) "Director" means the director of the department or the director's duly authorized representative.

(6) "Fiscal year" means the twelve-month period beginning with January 1st of any year and ending December 31st.

(7) "Producer" means any person or other entity licensed under Title 66 RCW to produce beer within Washington state and who produces less than one hundred thousand barrels of beer annually per location.

(8) "Referendum" means a vote by affected producers that is conducted by secret ballot.

**NEW SECTION. Sec. 3.** The history, economy, culture, and future of Washington state's agriculture involve the beer industry. In order to develop and promote beer as part of an existing comprehensive scheme to regulate those products, the legislature declares that:

(1) It is vital to the continued economic well-being of the citizens of this state and their general welfare that beer produced in Washington state be properly promoted;

(2) It is in the overriding public interest that support for the Washington beer industry be clearly expressed and that beer be promoted individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's agriculture industry;

(b) Protect the public by educating the public in reference to the quality, care, and methods used in the production of beer;

(c) Increase the knowledge of the qualities and value of Washington's beer; and

(d) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of beer;

(3) This chapter is enacted in the exercise of the police powers of this state to protect the health, peace, safety, and general welfare of the people of this state; and

(4) The production and marketing of beer is a highly regulated industry and this chapter and the rules adopted under it are only one aspect of the regulated industry. Other laws applicable to the beer industry include:

- (a) The organic food products act, chapter 15.86 RCW;
- (b) The wholesale distributors and suppliers of malt beverages, chapter 19.126 RCW;
- (c) Weights and measures, chapter 19.94 RCW;
- (d) Title 66 RCW, alcoholic beverage control;
- (e) Title 69 RCW, food, drugs, cosmetics, and poisons;
- (f) 21 C.F.R. as it relates to general manufacturing practices, food labeling, food standards, food additives, and pesticide tolerances;
- (g) Chapter 69.07 RCW, Washington food processing act;
- (h) 27 U.S.C. Secs. 201 through 211, 213 through 219a, and 122A;
- (i) 27 C.F.R. Parts 1, 6, 9, 10, 12, 16, 240, 251, and 252; and
- (j) Rules under Title 314 WAC.

**NEW SECTION. Sec. 4.** (1) Subject to the referendum conducted under section 5 of this act, there is created an agricultural commodity commission, to be known as the Washington beer commission. The commission shall be comprised of seven voting members; six members shall be producers and one voting member shall be the director.

(2) Five voting members of the commission constitute a quorum for the transaction of any commission business.

(3) Each producer member shall be a citizen and resident of this state and over the age of twenty-one. Each producer member must be engaged in producing beer, and must, during his or her term of office, derive a substantial portion of income from the production of beer, or have a substantial investment in the production of beer as an owner, lessee, partner, or the manager or executive officer of such a corporation. No more than one board member may be part of the same person as defined by RCW 15.04.010. These qualifications apply throughout each member's term of office but do not apply to the director.

(4) The producer members shall serve three-year terms. Of the initial voting members, two members shall be appointed for a one-year term, two members shall be appointed for a two-year term, and two members shall be appointed for a three-year term.

**NEW SECTION. Sec. 5.** (1) Upon receipt of a petition containing the signatures of five beer producers from a statewide Washington state craft brewing trade association or other affected producers to implement this chapter and to determine producer participation in the commission and assessment under this chapter, the director shall:

(a) Conduct a referendum of beer producers. The requirements of assent or approval of the referendum are met if:

(i) At least fifty-one percent by numbers of affected producers participating in the referendum vote affirmatively; and

(ii) Thirty percent of the affected producers and thirty percent of the production have been represented in the referendum to determine assent or

approval of participation and assessment. The referendum shall be conducted within sixty days of receipt of the petition; and

(b) Establish a list of beer producers from information provided by the petitioners, by obtaining information on beer producers from applicable producer organizations or associations or other sources identified as maintaining the information. In establishing a current list of beer producers and their individual production, the director shall use the beer producer's name, mailing address, and production by the producer in the preceding fiscal year. Information on each producer shall be mailed to each beer producer on record with the director for verification. All corrections shall be filed with the director within twenty days from the date of mailing. The list of affected producers shall be kept in a file by the director. The list shall be certified as a true representation of the referendum mailing list. Inadvertent failure to notify an affected producer does not invalidate a proceeding conducted under this chapter. The director shall provide the commission the list of affected producers after assent in a referendum as provided in this section.

(2) If the director determines that the requisite assent has been given in the referendum conducted under subsection (1) of this section, the director shall:

(a) Within sixty days after assent of the referendum held, appoint the members of the commission; and

(b) Direct the commission to put into force the assessment as provided for in section 14 of this act.

(3) If the director determines that the requisite assent has not been given in the referendum conducted under subsection (1) of this section, the director shall take no further action to implement or enforce this chapter.

(4) Upon completion of the referendum conducted under subsection (1) of this section, the department shall tally the results of the vote and provide the results to affected producers. If an affected producer disputes the results of a vote, that producer within sixty days from the announced results, shall provide in writing a statement of why the vote is disputed and request a recount. Once the vote is tallied and distributed, all disputes are resolved, and all matters in a vote are finalized, the individual ballots may be destroyed.

(5) Before conducting the referendum provided for in subsection (1) of this section, the director may require the petitioners to deposit with him or her an amount of money as the director deems necessary to defray the expenses of conducting the referendum. The director shall provide the petitioners an estimate of expenses that may be incurred to conduct a referendum before any service takes place. Petitioners shall deposit funds with the director to pay for expenses incurred by the department. The commission shall reimburse petitioners the amount paid to the department when funds become available. However, if for any reason the referendum process is discontinued, the petitioners shall reimburse the department for expenses incurred by the department up until the time the process is discontinued.

(6) The director is not required to hold a referendum under subsection (1) of this section more than once in any twelve-month period.

NEW SECTION. **Sec. 6.** (1) The director shall appoint the producer members of the commission. In making appointments, no later than ninety days before an expiration of a commission member's term, the director shall call for recommendations for commission member positions, and the director shall take

into consideration recommendations made by a statewide Washington state craft brewing trade association or other affected producers. In appointing persons to the commission, the director shall seek a balanced representation on the commission that reflects the composition of the beer producers throughout the state on the basis of beer produced and geographic location. Information on beer production by geographic location shall be provided by the commission upon the director's request.

(2) If a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the commission shall notify the director and the unexpired term shall immediately be filled by appointment by the director.

(3) Each member or employee of the commission shall be reimbursed for actual travel expenses incurred in carrying out this chapter as defined by the commission in rule. Otherwise if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 7.** Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission and, except to the extent of such assets, no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality thereof or against any member, employee, or agent of the commission or the state of Washington in his or her individual capacity. Except as otherwise provided in this chapter, neither the commission members, nor its employees, may be held individually responsible for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No person or employee may be held individually responsible for any act or omission of any other commission members. The liability of the commission members shall be several and not joint, and no member is liable for the default of any other member. This provision confirms that commission members have been and continue to be, state officers or volunteers for purposes of RCW 4.92.075 and are entitled to the defenses, indemnifications, limitations of liability, and other protections and benefits of chapter 4.92 RCW.

**NEW SECTION. Sec. 8.** The commission shall:

(1) Elect a chair and officers. The officers must include a treasurer who is responsible for all receipts and disbursements by the commission and the faithful discharge of whose duties shall be guaranteed by a bond at the sole expense of the commission. The commission must adopt rules for its own governance that provide for the holding of an annual meeting for the election of officers and the transaction of other business and for other meetings the commission may direct;

(2) Do all things reasonably necessary to effect the purposes of this chapter. However, the commission has no rule-making power except as provided in this chapter;

(3) Employ and discharge managers, secretaries, agents, attorneys, and employees and engage the services of independent contractors;

(4) Retain, as necessary, the services of private legal counsel to conduct legal actions on behalf of the commission. The retention of a private attorney is subject to review by the office of the attorney general;

(5) Receive donations of beer from producers for promotional purposes under subsections (6) and (7) of this section and for fund-raising purposes under subsection (8) of this section. Donations of beer for promotional purposes may only be disseminated without charge;

(6) Engage directly or indirectly in the promotion of Washington beer, including, without limitation, the acquisition in any lawful manner and the dissemination without charge of beer. This dissemination is not deemed a sale for any purpose and the commission is not deemed a producer, supplier, or manufacturer, or the clerk, servant, or agent of a producer, supplier, distributor, or manufacturer. This dissemination without charge shall be for agricultural development or trade promotion, and not for fund-raising purposes under subsection (8) of this section. Dissemination for promotional purposes may include promotional hosting and must in the good faith judgment of the commission be in the aid of the marketing, advertising, sale of beer, or of research related to such marketing, advertising, or sale;

(7) Promote Washington beer by conducting unique beer tastings without charge;

(8) Beginning July 1, 2007, fund the Washington beer commission through sponsorship of up to twelve beer festivals annually at which beer may be sold to festival participants. For this purpose, the commission would qualify for issue of a special occasion license as an exception to WAC 314-05-020 but must comply with laws under Title 66 RCW and rules adopted by the liquor control board under which such events may be conducted;

(9) Participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, regulation, distribution, sale, or use of beer including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission;

(10) Acquire and transfer personal and real property, establish offices, incur expenses, and enter into contracts, including contracts for the creation and printing of promotional literature. The contracts are not subject to chapter 43.78 RCW, and are cancelable by the commission unless performed under conditions of employment that substantially conform to the laws of this state and the rules of the department of labor and industries. The commission may create debt and other liabilities that are reasonable for proper discharge of its duties under this chapter;

(11) Maintain accounts with one or more qualified public depositories as the commission may direct, for the deposit of money, and expend money for purposes authorized by this chapter by drafts made by the commission upon such institutions or by other means;

(12) Cause to be kept and annually closed, in accordance with generally accepted accounting principles, accurate records of all receipts, disbursements, and other financial transactions, available for audit by the state auditor;

(13) Create and maintain a list of producers and disseminate information among and solicit the opinions of producers with respect to the discharge of the duties of the commission, directly or by arrangement with trade associations or other instrumentalities;

(14) Employ, designate as an agent, act in concert with, and enter into contracts with any person, council, commission, or other entity to promote the general welfare of the beer industry and particularly to assist in the sale and

distribution of Washington beer in domestic and foreign commerce. The commission shall expend money necessary or advisable for this purpose and to pay its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of Washington beer in domestic or foreign commerce, employing and paying for vendors of professional services of all kinds;

(15) Sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter; and

(16) Serve as liaison with the liquor control board on behalf of the commission and not for any individual producer.

**NEW SECTION. Sec. 9.** (1) The commission shall develop and submit to the director for approval any plans, programs, and projects concerning the following:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for advertising, promotion, and education programs related to beer; and

(b) The establishment and effectuation of market research projects, market development projects, or both to the end that the marketing of beer may be encouraged, expanded, improved, or made more efficient.

(2) The director shall review the commission's advertising or promotion program to ensure that no false claims are being made concerning beer.

(3) The commission, before the beginning of its fiscal year, shall prepare and submit to the director for approval its research plan, its commodity-related education and training plan, and its budget on a fiscal period basis.

(4) The director shall strive to review and make a determination of all submissions described in this section in a timely manner.

**NEW SECTION. Sec. 10.** The commission exists primarily for the benefit of the people of the state of Washington and its economy. The legislature hereby charges the commission, with oversight by the director, to speak on behalf of the Washington state government with regard to the marketing and promotion of Washington produced beer.

**NEW SECTION. Sec. 11.** The commission may create, provide for, and conduct a comprehensive and extensive research, promotional, and educational campaign as sales and market conditions reasonably require. It shall investigate and ascertain the needs of producers, conditions of markets, and degree of public awareness of products, and take into account this information in the discharge of its duties under this chapter.

**NEW SECTION. Sec. 12.** The commission shall adopt as major objectives of its research, promotional, and educational campaign goals that serve the needs of producers. The goals may include efforts to:

(1) Establish Washington beer as a major factor in markets everywhere;

(2) Promote Washington breweries as tourist attractions;

(3) Encourage favorable reporting of Washington beer and breweries in the press throughout the world;

(4) Establish Washington beer in markets everywhere as a major source of premium beer;



(5) Encourage favorable legislative and regulatory treatment of Washington beer in markets everywhere;

(6) Encourage promotion of Washington agriculture related to beer production, specifically hops, malting barley, and wheat grown in the state; and

(7) Foster economic conditions favorable to investment in the production of Washington beer.

**NEW SECTION. Sec. 13.** (1) The commission shall prepare a list of all affected producers from information available from the liquor control board, the department, or the producers' association. This list must contain the names and addresses of affected producers within this state and the amount, by barrelage, of beer produced during the period designated by the commission. A qualified person may, at any time, have his or her name placed upon the list by delivering or mailing the information to the commission. This list shall be corrected and brought up-to-date in accordance with evidence and information available to the commission by December 31st of each year. For the purposes of giving notice and holding referendums, the list updated before the date for issuing notices or ballots is the list of all producers entitled to notice, to assent or dissent, or to vote. Inadvertent failure to notify a producer does not invalidate a proceeding conducted under this chapter.

(2) It is the responsibility of affected producers to ensure that their correct address is filed with the commission. It is also the responsibility of affected producers to submit production data to the commission as prescribed by this chapter.

(3) The commission shall develop a reporting system to document that the affected producers in this state are reporting quantities of beer produced and are paying the assessment as provided in section 14 of this act.

**NEW SECTION. Sec. 14.** (1) Pursuant to referendum in accordance with section 5 of this act, there is levied, and the commission shall collect, upon beer produced by an affected producer, an annual assessment of ten cents per barrel of beer produced, up to ten thousand barrels per location.

(2) The commission shall adopt rules prescribing the time, place, and method for payment and collection of this assessment and provide for the collection of assessments from affected producers who ship directly out-of-state.

(3) The commission may reduce the assessment per affected producer based upon in-kind contributions to the commission.

**NEW SECTION. Sec. 15.** The commission shall deposit money collected under section 14 of this act in a separate account in the name of the commission in any bank that is a state depository. All expenditures and disbursements made from this account under this chapter may be made without the necessity of a specific legislative appropriation. RCW 43.01.050 does not apply to this account or to the money received, collected, or expended as provided in this chapter.

**NEW SECTION. Sec. 16.** An assessment levied in an amount determined by the commission under section 14 of this act constitutes a personal debt of every person assessed or who otherwise owes the assessment, and the assessment is due and payable to the commission when payment is called for by the commission. If a producer fails to pay the commission the full amount of the assessment by the date due, the commission may add to the unpaid assessment

an amount not exceeding ten percent of the assessment to defray the cost of enforcing its collection. If the person fails to pay an assessment, the commission may bring a civil action for collection against the person or persons in a court of competent jurisdiction. The action shall be tried and judgment rendered as in any other cause of action for a debt due and payable.

**NEW SECTION. Sec. 17.** (1) Under RCW 42.56.380, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving this chapter.

(3) This section does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person.

**NEW SECTION. Sec. 18.** (1) All costs incurred by the department, including the adoption of rules and other actions necessary to carry out this chapter, shall be reimbursed by the commission.

(2) The director may provide by rule for a method to fund staff support for all commodity boards or commissions in accordance with RCW 43.23.033 if a position is not directly funded by the legislature and costs are related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

**NEW SECTION. Sec. 19.** County and state law enforcement officers, the liquor control board and its enforcement agents, and employees of the department shall enforce this chapter.

**NEW SECTION. Sec. 20.** (1) Any prosecution brought under this chapter may be instituted in any county in which the defendant or any defendant resides, or in which the violation was committed, or in which the defendant or any defendant has his or her principal place of business.

(2) The superior courts may enforce this chapter and the rules and regulations of the commission issued hereunder, and may prevent and restrain violations thereof.

**NEW SECTION. Sec. 21.** This act shall be liberally construed to effectuate its purposes.

**Sec. 22.** RCW 66.44.800 and 1987 c 452 s 17 are each amended to read as follows:

(1) Nothing contained in chapter 15.88 RCW shall affect the compliance by the Washington wine commission with this chapter.

(2) Nothing contained in chapter 15.— RCW (sections 1 through 21 of this act) shall affect the compliance by the Washington beer commission with this chapter.

**NEW SECTION. Sec. 23.** A new section is added to chapter 66.12 RCW to read as follows:

The Washington beer commission created under section 4 of this act may purchase or receive donations of beer or malt beverages from any brewery, in any state, or in any country and may use such beer or malt beverages for any promotional purposes as outlined in section 8 of this act. Beer and malt beverages that are furnished to the commission under this section that are used within the state are subject to the taxes imposed under RCW 66.24.290. No license, permit, or bond is required of the Washington beer commission under this title for promotional activities conducted under chapter 15.— RCW (sections 1 through 21 of this act).

**Sec. 24.** RCW 15.04.200 and 1987 c 452 s 16 are each amended to read as follows:

(1) Under the authority of Article VIII of the state Constitution as amended, agricultural commodity commission expenditures for agricultural development or trade promotion and promotional hosting by an agricultural commodities commission under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.88, 15.— (sections 1 through 21 of this act), and 16.67 RCW shall be pursuant to specific budget items as approved by the agricultural commodity commission at the annual public hearings on the agricultural commodity commission budget.

(2) Agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by agricultural commodity commission employees, agents or commissioners. The rules shall identify officials and agents authorized to make expenditures and the objectives of the expenditures. Individual agricultural commodity commission commissioners shall make promotional hosting expenditures, or seek reimbursements for these expenditures, only in those instances where the expenditures have been approved by the agricultural commodity commission. All payments and reimbursements shall be identified and supported on vouchers.

(3) Agricultural commodity commissions shall be exempt from the requirements of RCW 43.01.090 and 43.19.500 and chapter 43.82 RCW.

**Sec. 25.** RCW 42.17.31907 and 2002 c 313 s 66 are each amended to read as follows:

The following agricultural business records and commodity board and commission records are exempt from the disclosure requirements of this chapter:

(1) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.— (sections 1 through 21 of this act), and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(2) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States

department of agriculture, or on applications for phytosanitary certification required by the department of agriculture; and

(3) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.— (sections 1 through 21 of this act), or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information.

**Sec. 26.** RCW 42.56.380 and 2005 c 274 s 418 are each amended to read as follows:

The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

(1) Business-related information under RCW 15.86.110;

(2) Information provided under RCW 15.54.362;

(3) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.— (sections 1 through 21 of this act), and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;

(4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;

(5) Financial and commercial information and records supplied by persons (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or (b) to the department of agriculture or commodity boards or commissions formed under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, 15.— (sections 1 through 21 of this act), or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information;

(6) Except under RCW 15.19.080, information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer;

(7) Information that can be identified to a particular business and that is collected under section 3(1), chapter 235, Laws of 2002; and

(8) Financial statements provided under RCW 16.65.030(1)(d).

**Sec. 27.** RCW 43.23.033 and 2002 c 313 s 78 are each amended to read as follows:

(1) The director may provide by rule for a method to fund staff support for all commodity boards and commissions if a position is not directly funded by the legislature.

(2) Staff support funded under this section and RCW 15.65.047(1)(c), 15.66.055(3), 15.24.215, 15.26.265, 15.28.320, 15.44.190, 15.88.180, section 18

of this act, and 16.67.190 shall be limited to one-half full-time equivalent employee for all commodity boards and commissions.

**Sec. 28.** RCW 66.28.010 and 2004 c 160 s 9 and 2004 c 62 s 1 are each reenacted and amended to read as follows:

(1)(a) No manufacturer, importer, distributor, or authorized representative, or person financially interested, directly or indirectly, in such business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, unless the retail business is owned by a corporation in which a manufacturer or importer has no direct stock ownership and there are no interlocking officers and directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation or the retail licensee; nor shall any manufacturer, importer, distributor, or authorized representative own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, distributor, or authorized representative has any interest unless title to that property is owned by a corporation in which a manufacturer has no direct stock ownership and there are no interlocking officers or directors, the retail license is held by a corporation that is not owned directly or indirectly by the manufacturer, the sales of liquor are incidental to the primary activity of operating the property either as a hotel or as an amphitheater offering live musical and similar live entertainment activities to the public, alcoholic beverages produced by the manufacturer or any of its subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation of the retail licensee. Except as provided in subsection (3) of this section, no manufacturer, importer, distributor, or authorized representative shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth. "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, distributor, or authorized representative as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. Except as otherwise provided in this section, no manufacturer, importer, distributor, or authorized representative shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, distributor, or authorized representative sell at retail any liquor as herein defined. A corporation granted an exemption under this subsection may use debt instruments issued in connection with financing construction or operations of its facilities.

(b) Nothing in this section shall prohibit a licensed domestic brewery or microbrewery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine distributor.

(c) Nothing in this section shall prohibit a licensed distiller, domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, from being licensed as a spirits, beer, and wine restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a spirits, beer, and wine restaurant premises on the property on which the primary manufacturing facility of the licensed distiller, domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned or leased by the licensed distiller, domestic brewer, microbrewery, or domestic winery as prescribed by rules adopted by the board pursuant to chapter 34.05 RCW.

(d) Nothing in this section prohibits retail licensees with a caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from operating on a domestic winery premises.

(e) Until July 1, 2007, nothing in this section prohibits a nonprofit statewide organization of microbreweries formed for the purpose of promoting Washington's craft beer industry as a trade association registered as a 501(c) with the internal revenue service from holding a special occasion license to conduct up to six beer festivals.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, distributors, and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or distributor from providing services to a special occasion licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a special occasion licensee from receiving any such services as may be provided by a manufacturer, importer, or distributor. Nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor distributor's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the distributor, (ii) is not employed by the distributor, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the distributor.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under RCW 66.24.580 does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

NEW SECTION. Sec. 29. 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. 30. Sections 1 through 21 of this act constitute a new chapter in Title 15 RCW.

NEW SECTION. Sec. 31. Section 25 of this act expires July 1, 2006.

NEW SECTION. Sec. 32. Section 26 of this act takes effect July 1, 2006.

Passed by the Senate March 4, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

## CHAPTER 331

[Senate Bill 6762]

### MOTORCYCLES—HAZARD WARNINGS

AN ACT Relating to limiting the posting of hazards to motorcycles to paved roadways; and reenacting and amending RCW 47.36.200.

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

**Sec. 1.** RCW 47.36.200 and 2003 c 355 s 1 and 2003 c 53 s 258 are each reenacted and amended to read as follows:

(1) When construction, repair, or maintenance work is conducted on or adjacent to a public highway, county road, street, bridge, or other thoroughfare commonly traveled and when the work interferes with the normal and established mode of travel on the highway, county road, street, bridge, or thoroughfare, the location shall be properly posted by prominently displayed signs or flagmen or both. Signs used for posting in such an area shall be consistent with the provisions found in the state of Washington "Manual on Uniform Traffic Control Devices for Streets and Highways" obtainable from the department of transportation.

(2) If the construction, repair, or maintenance work includes or uses grooved pavement, abrupt lane edges, steel plates, or gravel or earth surfaces, the construction, repair, or maintenance zone must be posted with signs stating the

condition, as required by current law, and in addition, must warn motorcyclists of the potential hazard only if the hazard or condition exists on a paved public highway, county road, street, bridge, or other thoroughfare commonly traveled. For the purposes of this subsection, the department shall adopt by rule a uniform sign or signs for this purpose, including at least the following language, "MOTORCYCLES USE EXTREME CAUTION."

(3) Any contractor, firm, corporation, political subdivision, or other agency performing such work shall comply with this section.

(4) Each driver of a motor vehicle used in connection with such construction, repair, or maintenance work shall obey traffic signs posted for, and flaggers stationed at such location in the same manner and under the same restrictions as is required for the driver of any other vehicle.

(5) A violation of or a failure to comply with this section is a misdemeanor. Each day upon which there is a violation, or there is a failure to comply, constitutes a separate violation.

Passed by the Senate February 11, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 332

[Engrossed Substitute Senate Bill 6787]

### PASSENGER-ONLY FERRY SERVICE

AN ACT Relating to local government passenger ferry service funding; amending RCW 47.60.645, 36.54.110, 36.54.130, and 36.54.050; reenacting and amending RCW 81.84.020; adding new sections to chapter 47.60 RCW; adding new sections to chapter 47.01 RCW; adding a new section to chapter 36.57A RCW; and creating a new section.

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

**Sec. 1.** RCW 47.60.645 and 1995 2nd sp.s. c 14 s 558 are each amended to read as follows:

There is hereby established in the transportation fund the passenger ferry account. Money in the account shall be used for ~~((capital improvements for passenger ferry projects including, but not limited to, pedestrian and transit facilities at ferry terminals and passenger only ferry vessels))~~ operating or capital grants for ferry systems as provided in chapters 36.54 and 36.57A RCW. Moneys in the account shall be expended with legislative appropriation.

**NEW SECTION. Sec. 2.** By October 31, 2006, the department of transportation shall have an independent appraisal of the market value of the Washington state ferries Snohomish and Chinook and present it to the transportation committees of the legislature and the governor by November 1, 2006. The department of transportation shall sell or otherwise dispose of the Washington state ferries Snohomish and Chinook for market value and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645 as soon as practicable upon approval by the governor of the business plan described in RCW 36.54.110(5).

**NEW SECTION. Sec. 3.** A new section is added to chapter 47.60 RCW to read as follows:



The department shall maintain the level of service existing on January 1, 2006, for the Vashon to Seattle passenger-only ferry route until such time as the legislature approves a county ferry district's assumption of the route, as authorized under RCW 36.54.110(5), providing a level of service at or exceeding the state level.

**NEW SECTION. Sec. 4.** A new section is added to chapter 47.01 RCW to read as follows:

(1) The department of transportation shall establish a ferry grant program subject to availability of amounts appropriated for this specific purpose. The purpose of the grant program is to provide operating or capital grants for ferry systems as provided in chapters 36.54 and 36.57A RCW to operate passenger-only ferry service.

(2) In providing grants under this section, the department may enter into multiple year contracts with the stipulation that future year allocations are subject to the availability of funding as provided by legislative appropriation.

(3) Priority shall be given to grant applications that provide continuity of existing passenger-only service and the provision of local or federal matching funds.

**NEW SECTION. Sec. 5.** A new section is added to chapter 47.60 RCW to read as follows:

The Washington state ferry system shall collaborate with new and potential passenger-only ferry service providers, as described in RCW 36.54.110(5), for terminal operations at its existing terminal facilities.

**NEW SECTION. Sec. 6.** A new section is added to chapter 47.01 RCW to read as follows:

The office of financial management shall contract to develop a back-up plan for operating the Vashon to Seattle passenger-only ferry route existing on January 1, 2006, that does not include operations by state government.

**Sec. 7.** RCW 36.54.110 and 2003 c 83 s 301 are each amended to read as follows:

(1) The legislative authority of a county (~~with a population over one million persons and having a boundary on Puget Sound~~) may adopt an ordinance creating a ferry district in all or a portion of the area of the county, including the area within the corporate limits of any city or town within the county. The ordinance may be adopted only after a public hearing has been held on the creation of a ferry district, and the county legislative authority makes a finding that it is in the public interest to create the district. (~~A ferry district is limited to providing passenger-only ferry service.~~)

(2) A ferry district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(3) A ferry district is a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(4) The members of the county legislative authority, acting ex officio and independently, shall compose the governing body of any ferry district that is created within the county. The voters of a ferry district must be registered voters residing within the boundaries of the district.

(5) ~~((For the purposes of this section, Puget Sound is considered as extending north as far as the Canadian border and west as far as Port Angeles.))~~ A county with a population greater than one million persons and having a boundary on Puget Sound, or a county to the west of Puget Sound with a population greater than two hundred thirty thousand but less than three hundred thousand persons, proposing to create a ferry district to assume a passenger-only ferry route between Vashon and Seattle, including an expansion of that route to include Southworth, shall first receive approval from the governor after submitting a complete business plan to the governor and the legislature by November 1, 2006. The business plan must, at a minimum, include hours of operation, vessel needs, labor needs, proposed routes, passenger terminal facilities, passenger rates, anticipated federal and local funding, coordination with Washington state ferry system, coordination with existing transit providers, long-term operation and maintenance needs, and long-term financial plan. The business plan may include provisions regarding coordination with an appropriate county to participate in a joint ferry under RCW 36.54.030 through 36.54.070. In order to be considered for assuming the route, the ferry district shall ensure that the route will be operated only by the ferry district and not contracted out to a private entity, all existing labor agreements will be honored, and operations will begin no later than July 1, 2007. If the route is to be expanded to include serving Southworth, the ferry district shall enter into an interlocal agreement with the public transportation benefit area serving the Southworth ferry terminal within thirty days of beginning Southworth ferry service. For the purposes of this subsection, Puget Sound is considered as extending north to Admiralty Inlet.

NEW SECTION. Sec. 8. A new section is added to chapter 36.57A RCW to read as follows:

A public transportation benefit area seeking funding for a passenger-only ferry route between Kingston and Seattle shall first receive approval from the governor after submitting a complete business plan to the governor and the legislature by November 1, 2006. The business plan must, at a minimum, include hours of operation, vessel needs, labor needs, proposed routes, passenger terminal facilities, passenger rates, anticipated federal and local funding, coordination with Washington state ferry system, coordination with existing transit providers, long-term operation and maintenance needs, and long-term financial plan.

Sec. 9. RCW 36.54.130 and 2003 c 83 s 303 are each amended to read as follows:

(1) To carry out the purposes for which ferry districts are created, the governing body of a ferry district may levy each year an ad valorem tax on all taxable property located in the district not to exceed seventy-five cents per thousand dollars of assessed value. The levy must be sufficient for the provision of ferry services as shown to be required by the budget prepared by the governing body of the ferry district.

(2) A tax imposed under this section may be used only for providing ~~((passenger-only))~~ ferry services, including the purchase, lease, or rental of ~~((passenger-only))~~ ferry vessels and dock facilities, the operation and maintenance of ~~((passenger-only))~~ ferry vessels and dock facilities, and related personnel costs.

**Sec. 10.** RCW 36.54.050 and 1963 c 4 s 36.54.050 are each amended to read as follows:

The joint commission is authorized to transact all business necessary in carrying out the purposes of RCW 36.54.030 through 36.54.070 and its acts shall be binding upon the two counties, and one-half of all bills and obligations created by the commission shall be binding and a legal charge against the road fund of each county and the claims therefor shall be allowed and paid out of the county road fund the same as other claims against said fund are allowed and paid, unless otherwise provided in an agreement between the two counties.

**Sec. 11.** RCW 81.84.020 and 2005 c 313 s 609 and 2005 c 121 s 7 are each reenacted and amended to read as follows:

(1) Upon the filing of an application the commission shall give reasonable notice to the department, affected cities, counties, and public transportation benefit areas and any common carrier which might be adversely affected, of the time and place for hearing on such application. The commission shall have power after notice and an opportunity for a hearing, to issue the certificate as prayed for, or to refuse to issue it, or to issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as in its judgment the public convenience and necessity may require; but the commission shall not have power to grant a certificate to operate between districts and/or into any territory prohibited by RCW 47.60.120 or already served by an existing certificate holder, unless such existing certificate holder has failed or refused to furnish reasonable and adequate service, has failed to provide the service described in its certificate or tariffs after the time period allowed to initiate service has elapsed, or has not objected to the issuance of the certificate as prayed for: PROVIDED, A certificate shall be granted when it shall appear to the satisfaction of the commission that the commercial ferry was actually operating in good faith over the route for which such certificate shall be sought, on January 15, 1927: PROVIDED, FURTHER, That in case two or more commercial ferries shall upon said date have been operating vessels upon the same route, or between the same districts the commission shall determine after public hearing whether one or more certificates shall issue, and in determining to whom a certificate or certificates shall be issued, the commission shall consider all material facts and circumstances including the prior operation, schedules, and services rendered by either of the ferries, and in case more than one certificate shall issue, the commission shall fix and determine the schedules and services of the ferries to which the certificates are issued to the end that duplication of service be eliminated and public convenience be furthered.

(2) Before issuing a certificate, the commission shall determine that the applicant has the financial resources to operate the proposed service for at least twelve months, based upon the submission by the applicant of a pro forma financial statement of operations. Issuance of a certificate shall be determined

upon, but not limited to, the following factors: Ridership and revenue forecasts; the cost of service for the proposed operation; an estimate of the cost of the assets to be used in providing the service; a statement of the total assets on hand of the applicant that will be expended on the proposed operation; and a statement of prior experience, if any, in such field by the applicant. The documentation required of the applicant under this section shall comply with the provisions of RCW 9A.72.085.

(3) Subsection (2) of this section does not apply to an application for a certificate that is pending as of July 25, 1993.

(4) In granting a certificate for passenger-only ferries and determining what conditions to place on the certificate, the commission shall consider and give substantial weight to the effect of its decisions on public agencies operating, or eligible to operate, passenger-only ferry service.

(5) Until July 1, (~~2006~~) 2007, the commission shall not accept or consider an application for passenger-only ferry service serving any county in the Puget Sound area with a population of over one million people. Applications for passenger-only ferry service serving any county in the Puget Sound area with a population of over one million pending before the commission as of May 9, 2005, shall be held in abeyance and not considered before July 1, (~~2006~~) 2007.

Passed by the Senate March 8, 2006.

Passed by the House March 8, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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### CHAPTER 333

[Second Substitute Senate Bill 6793]

#### PEOPLE WITH MENTAL DISORDERS—TREATMENT

AN ACT Relating to specifying roles and responsibilities with respect to the treatment of persons with mental disorders; amending RCW 71.24.016, 71.24.045, 71.24.300, 71.24.310, 71.24.320, 71.24.330, 72.23.025, 71.05.230, 71.05.300, and 71.05.320; reenacting and amending RCW 71.24.025 and 71.24.035; adding a new section to chapter 71.24 RCW; adding a new section to chapter 71.05 RCW; creating new sections; repealing RCW 71.05.550; providing an effective date; and declaring an emergency.

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

#### PART I

#### REGIONAL SUPPORT NETWORKS

**NEW SECTION. Sec. 101.** (1) The legislature finds that ambiguities have been identified regarding the appropriation and allocation of federal and state funds, and the responsibilities of the department of social and health services and the regional support networks with regard to the provision of inpatient mental health services under the community mental health services act, chapter 71.24 RCW, and the involuntary treatment act, chapter 71.05 RCW. The purpose of this 2006 act is to make retroactive, remedial, curative, and technical amendments in order to resolve such ambiguities.

(2) In enacting the community mental health services act, the legislature intended the relationship between the state and the regional support networks to be governed solely by the terms of the regional support network contracts and

did not intend these relationships to create statutory causes of action not expressly provided for in the contracts. Therefore, the legislature's intent is that, except to the extent expressly provided in contracts entered after the effective date of this section, the department of social and health services and regional support networks shall resolve existing and future disagreements regarding the subject matter identified in sections 103 and 301 of this act through nonjudicial means.

**Sec. 102.** RCW 71.24.016 and 2001 c 323 s 4 are each amended to read as follows:

(1) The legislature intends that eastern and western state hospitals shall operate as clinical centers for handling the most complicated long-term care needs of patients with a primary diagnosis of mental disorder. It is further the intent of the legislature that the community mental health service delivery system focus on maintaining mentally ill individuals in the community. The program shall be evaluated and managed through a limited number of performance measures designed to hold each regional support network accountable for program success.

(2) The legislature intends to address the needs of people with mental disorders with a targeted, coordinated, and comprehensive set of evidence-based practices that are effective in serving individuals in their community and will reduce the need for placements in state mental hospitals. The legislature further intends to explicitly hold regional support networks accountable for serving people with mental disorders within their geographic boundaries and for not exceeding their allocation of state hospital beds. Within funds appropriated by the legislature for this purpose, regional support networks shall develop the means to serve the needs of people with mental disorders within their geographic boundaries. Elements of the program may include:

(a) Crisis triage;

(b) Evaluation and treatment and community hospital beds;

(c) Residential beds;

(d) Programs for community treatment teams; and

(e) Outpatient services.

(3) The regional support network shall have the flexibility, within the funds appropriated by the legislature for this purpose, to design the mix of services that will be most effective within their service area of meeting the needs of people with mental disorders and avoiding placement of such individuals at the state mental hospital. Regional support networks are encouraged to maximize the use of evidence-based practices and alternative resources with the goal of substantially reducing and potentially eliminating the use of institutions for mental diseases.

**NEW SECTION. Sec. 103.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after the effective date of this section.

(2) Except as expressly provided in contracts entered into between the department and the regional support networks after the effective date of this

section, the entities identified in subsection (3) of this section shall have no claim for declaratory relief, injunctive relief, judicial review under chapter 34.05 RCW, or civil liability against the state or state agencies for actions or inactions performed pursuant to the administration of this chapter with regard to the following: (a) The allocation or payment of federal or state funds; (b) the use or allocation of state hospital beds; or (c) financial responsibility for the provision of inpatient mental health care.

(3) This section applies to counties, regional support networks, and entities which contract to provide regional support network services and their subcontractors, agents, or employees.

**Sec. 104.** RCW 71.24.025 and 2005 c 504 s 105 and 2005 c 503 s 2 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Available resources" means funds appropriated for the purpose of providing community mental health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals(~~(, except as negotiated according to RCW 71.24.300(1)(d)).~~).

(3) "Child" means a person under the age of eighteen years.

(4) "Chronically mentally ill adult" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(5) "Community mental health program" means all mental health services, activities, or programs using available resources.

(6) "Community mental health service delivery system" means public or private agencies that provide services specifically to persons with mental disorders as defined under RCW 71.05.020 and receive funding from public sources.

(7) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for mentally ill persons being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for acutely mentally ill and severely emotionally disturbed children discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by regional support networks.

(8) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(9) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

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

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(12) "Emerging best practice" or "promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(13) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(14) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 RCW or an entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department, that meets state minimum standards or persons licensed under chapter 18.57, 18.71, 18.83, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(15) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

~~(16)~~ (16) "Mental health services" means all services provided by regional support networks and other services provided by the state for the mentally ill.

~~((16))~~ (17) "Mentally ill persons" and "the mentally ill" mean persons and conditions defined in subsections (1), (4), ~~((25))~~ (26), and ~~((26))~~ (27) of this section.

~~((17))~~ (18) "Recovery" means the process in which people are able to live, work, learn, and participate fully in their communities.

~~((18))~~ (19) "Regional support network" means a county authority or group of county authorities or other nonprofit entity recognized by the secretary in contract in a defined region.

~~((19))~~ (20) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

~~((20))~~ (21) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for acutely mentally ill persons, chronically mentally ill adults, severely emotionally disturbed children, or seriously disturbed adults determined by the regional support network to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service mentally ill persons in nursing homes, boarding homes, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

~~((21))~~ (22) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

~~((22))~~ (23) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

~~((23))~~ (24) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Acutely mentally ill adults and children; (b) chronically mentally ill adults; (c) severely emotionally disturbed children; or (d) seriously disturbed adults determined solely by a regional support network to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding mentally ill adults' and children's enrollment in services and their individual service plan to designated mental



health professionals, evaluation and treatment facilities, and others as determined by the regional support network.

~~((24))~~ (25) "Secretary" means the secretary of social and health services.

~~((25))~~ (26) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

~~((26))~~ (27) "Severely emotionally disturbed child" means a child who has been determined by the regional support network to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a mentally ill or inadequate caretaker;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

~~((27))~~ (28) "State minimum standards" means minimum requirements established by rules adopted by the secretary and necessary to implement this chapter for: (a) Delivery of mental health services; (b) licensed service providers for the provision of mental health services; (c) residential services; and (d) community support services and resource management services.

~~((28))~~ (29) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not

include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

~~((29))~~ (30) "Tribal authority," for the purposes of this section and RCW 71.24.300 only, means: The federally recognized Indian tribes and the major Indian organizations recognized by the secretary insofar as these organizations do not have a financial relationship with any regional support network that would present a conflict of interest.

**Sec. 105.** RCW 71.24.045 and 2005 c 503 s 8 are each amended to read as follows:

The regional support network shall:

(1) Contract as needed with licensed service providers. The regional support network may, in the absence of a licensed service provider entity, become a licensed service provider entity pursuant to minimum standards required for licensing by the department for the purpose of providing services not available from licensed service providers;

(2) Operate as a licensed service provider if it deems that doing so is more efficient and cost effective than contracting for services. When doing so, the regional support network shall comply with rules promulgated by the secretary that shall provide measurements to determine when a regional support network provided service is more efficient and cost effective;

(3) Monitor and perform biennial fiscal audits of licensed service providers who have contracted with the regional support network to provide services required by this chapter. The monitoring and audits shall be performed by means of a formal process which insures that the licensed service providers and professionals designated in this subsection meet the terms of their contracts;

(4) Assure that the special needs of minorities, the elderly, disabled, children, and low-income persons are met within the priorities established in this chapter;

(5) Maintain patient tracking information in a central location as required for resource management services and the department's information system;

~~(6) (Use not more than two percent of state appropriated community mental health funds, which shall not include federal funds, to administer community mental health programs under RCW 71.24.155: PROVIDED, That county authorities serving a county or combination of counties whose population is one hundred twenty five thousand or more may be entitled to sufficient state appropriated community mental health funds to employ up to one full time employee or the equivalent thereof in addition to the two percent limit established in this subsection when such employee is providing staff services to a county mental health advisory board;~~

~~(7))~~ Collaborate to ensure that policies do not result in an adverse shift of mentally ill persons into state and local correctional facilities;

~~((8))~~ (7) Work with the department to expedite the enrollment or re-enrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases;

~~((9))~~ (8) If a regional support network is not operated by the county, work closely with the county designated mental health professional or county designated crisis responder to maximize appropriate placement of persons into community services; and

~~((+))~~ (9) Coordinate services for individuals who have received services through the community mental health system and who become patients at a state mental hospital to ensure they are transitioned into the community in accordance with mutually agreed upon discharge plans and upon determination by the medical director of the state mental hospital that they no longer need intensive inpatient care.

**Sec. 106.** RCW 71.24.300 and 2005 c 503 s 11 are each amended to read as follows:

(1) Upon the request of a tribal authority or authorities within a regional support network the joint operating agreement or the county authority shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network.

(2) The roles and responsibilities of the county and tribal authorities shall be determined by the terms of that agreement including a determination of membership on the governing board and advisory committees, the number of tribal representatives to be party to the agreement, and the provisions of law and shall assure the provision of culturally competent services to the tribes served.

(3) The state mental health authority may not determine the roles and responsibilities of county authorities as to each other under regional support networks by rule, except to assure that all duties required of regional support networks are assigned and that counties and the regional support network do not duplicate functions and that a single authority has final responsibility for all available resources and performance under the regional support network's contract with the secretary.

(4) If a regional support network is a private nonprofit entity, the department shall allow for the inclusion of the tribal authority to be represented as a party to the regional support network.

(5) The roles and responsibilities of the private nonprofit entity and the tribal authorities shall be determined by the department, through negotiation with the tribal authority.

~~((+))~~ (6) Regional support networks shall submit an overall six-year operating and capital plan, timeline, and budget and submit progress reports and an updated two-year plan biennially thereafter, to assume within available resources all of the following duties:

(a) Administer and provide for the availability of all resource management services, residential services, and community support services.

(b) Administer and provide for the availability of all investigation, transportation, court-related, and other services provided by the state or counties pursuant to chapter 71.05 RCW.

(c) Provide within the boundaries of each regional support network evaluation and treatment services for at least ~~((eighty-five))~~ ninety percent of persons detained or committed for periods up to seventeen days according to chapter 71.05 RCW. Regional support networks ~~((with populations of less than one hundred fifty thousand))~~ may contract to purchase evaluation and treatment services from other networks if they are unable to provide for appropriate resources within their boundaries. Insofar as the original intent of serving persons in the community is maintained, the secretary is authorized to approve exceptions on a case-by-case basis to the requirement to provide evaluation and

treatment services within the boundaries of each regional support network. Such exceptions are limited to:

(i) Contracts with neighboring or contiguous regions; or

(ii) Individuals detained or committed for periods up to seventeen days at the state hospitals at the discretion of the secretary.

~~(d) ((Administer a portion of funds appropriated by the legislature to house mentally ill persons in state institutions from counties within the boundaries of any regional support network, with the exception of persons currently confined at, or under the supervision of, a state mental hospital pursuant to chapter 10.77 RCW, and provide for the care of all persons needing evaluation and treatment services for periods up to seventeen days according to chapter 71.05 RCW in appropriate residential services, which may include state institutions. The regional support networks shall reimburse the state for use of state institutions at a rate equal to that assumed by the legislature when appropriating funds for such care at state institutions during the biennium when reimbursement occurs. The secretary shall submit a report to the appropriate committees of the senate and house of representatives on the efforts to implement this section by October 1, 2002. The duty of a state hospital to accept persons for evaluation and treatment under chapter 71.05 RCW is limited by the responsibilities assigned to regional support networks under this section.~~

~~(e))~~ Administer and provide for the availability of all other mental health services, which shall include patient counseling, day treatment, consultation, education services, employment services as defined in RCW 71.24.035, and mental health services to children.

~~((f))~~ (e) Establish standards and procedures for reviewing individual service plans and determining when that person may be discharged from resource management services.

~~((g))~~ (7) A regional support network may request that any state-owned land, building, facility, or other capital asset which was ever purchased, deeded, given, or placed in trust for the care of the mentally ill and which is within the boundaries of a regional support network be made available to support the operations of the regional support network. State agencies managing such capital assets shall give first priority to requests for their use pursuant to this chapter.

~~((h))~~ (8) Each regional support network shall appoint a mental health advisory board which shall review and provide comments on plans and policies developed under this chapter, provide local oversight regarding the activities of the regional support network, and work with the regional support network to resolve significant concerns regarding service delivery and outcomes. The department shall establish statewide procedures for the operation of regional advisory committees including mechanisms for advisory board feedback to the department regarding regional support network performance. The composition of the board shall be broadly representative of the demographic character of the region and shall include, but not be limited to, representatives of consumers and families, law enforcement, and where the county is not the regional support network, county elected officials. Composition and length of terms of board members may differ between regional support networks but shall be included in each regional support network's contract and approved by the secretary.

~~((4))~~ (9) Regional support networks shall assume all duties specified in their plans and joint operating agreements through biennial contractual agreements with the secretary.

~~((5))~~ (10) Regional support networks may receive technical assistance from the housing trust fund and may identify and submit projects for housing and housing support services to the housing trust fund established under chapter 43.185 RCW. Projects identified or submitted under this subsection must be fully integrated with the regional support network six-year operating and capital plan, timeline, and budget required by subsection ~~((4))~~ (6) of this section.

**Sec. 107.** RCW 71.24.310 and 1989 c 205 s 6 are each amended to read as follows:

The legislature finds that administration of chapter 71.05 RCW and this chapter can be most efficiently and effectively implemented as part of the regional support network defined in RCW 71.24.025. For this reason, the legislature intends that ~~((any enhanced program funding for implementation of))~~ the department and the regional support networks shall work together to implement chapter 71.05 RCW ~~((or this chapter, except for funds allocated for implementation of mandatory statewide programs as required by federal statute, be made available primarily to those counties participating in regional support networks))~~ as follows:

(1) By June 1, 2006, regional support networks shall recommend to the department the number of state hospital beds that should be allocated for use by each regional support network. The statewide total allocation shall not exceed the number of state hospital beds offering long-term inpatient care, as defined in this chapter, for which funding is provided in the biennial appropriations act.

(2) If there is consensus among the regional support networks regarding the number of state hospital beds that should be allocated for use by each regional support network, the department shall contract with each regional support network accordingly.

(3) If there is not consensus among the regional support networks regarding the number of beds that should be allocated for use by each regional support network, the department shall establish by emergency rule the number of state hospital beds that are available for use by each regional support network. The emergency rule shall be effective September 1, 2006. The primary factor used in the allocation shall be the estimated number of acutely and chronically mentally ill adults in each regional support network area, based upon population-adjusted incidence and utilization.

(4) The allocation formula shall be updated at least every three years to reflect demographic changes, and new evidence regarding the incidence of acute and chronic mental illness and the need for long-term inpatient care. In the updates, the statewide total allocation shall include (a) all state hospital beds offering long-term inpatient care for which funding is provided in the biennial appropriations act; plus (b) the estimated equivalent number of beds or comparable diversion services contracted in accordance with subsection (5) of this section.

(5) The department is encouraged to enter performance-based contracts with regional support networks to provide some or all of the regional support network's allocated long-term inpatient treatment capacity in the community, rather than in the state hospital. The performance contracts shall specify the

number of patient days of care available for use by the regional support network in the state hospital.

(6) If a regional support network uses more state hospital patient days of care than it has been allocated under subsection (3) or (4) of this section, or than it has contracted to use under subsection (5) of this section, whichever is less, it shall reimburse the department for that care. The reimbursement rate per day shall be the hospital's total annual budget for long-term inpatient care, divided by the total patient days of care assumed in development of that budget.

(7) One-half of any reimbursements received pursuant to subsection (6) of this section shall be used to support the cost of operating the state hospital. The department shall distribute the remaining half of such reimbursements among regional support networks that have used less than their allocated or contracted patient days of care at that hospital, proportional to the number of patient days of care not used.

## PART II MENTAL HEALTH AUTHORITY

**Sec. 201.** RCW 71.24.035 and 2005 c 504 s 715 and 2005 c 503 s 7 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for mentally ill adults and children. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents in the following order of priority: (i) The acutely mentally ill; (ii) chronically mentally ill adults and severely emotionally disturbed children; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for mentally ill persons which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in mentally ill persons becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of minorities, the elderly, disabled, children, and low-income persons are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards and RCW 71.24.320 ~~((and))~~, 71.24.330, and 71.24.3201, which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter; and

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

~~(13)((a) The department, in consultation with affected parties, shall establish a distribution formula that reflects regional needs assessments based on the number of persons who are acutely mentally ill, chronically mentally ill, severely emotionally disturbed children, and seriously disturbed. The formula~~



~~shall take into consideration the impact on regions of demographic factors which result in concentrations of priority populations as set forth in subsection (5)(b) of this section. These factors shall include the population concentrations resulting from commitments under chapters 71.05 and 71.34 RCW to state psychiatric hospitals, as well as concentration in urban areas, at border crossings at state boundaries, and other significant demographic and workload factors.~~

~~(b) The formula shall also include a projection of the funding allocations that will result for each region, which specifies allocations according to priority populations, including the allocation for services to children and other underserved populations.~~

~~(c) After July 1, 2003, the department may allocate up to two percent of total funds to be distributed to the regional support networks for incentive payments to reward the achievement of superior outcomes, or significantly improved outcomes, as measured by a statewide performance measurement system consistent with the framework recommended in the joint legislative audit and review committee's performance audit of the mental health system. The department shall annually report to the legislature on its criteria and allocation of the incentives provided under this subsection.)~~ The department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(14) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(15) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. ~~((Written notice and at least thirty days for corrective action must precede any such action. In such cases, regional support networks shall have full rights to appeal under chapter 34.05 RCW.))~~ Regional support networks disputing the decision of the secretary

to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(16) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

**Sec. 202.** RCW 71.24.320 and 2005 c 503 s 4 are each amended to read as follows:

(1) The secretary shall initiate a procurement process for regional support networks in 2005. In the first step of the procurement process, existing regional support networks may respond to a request for qualifications developed by the department. The secretary shall issue the request for qualifications not later than October 1, 2005. The request for qualifications shall be based on cost-effectiveness, adequate residential and service capabilities, effective collaboration with criminal justice agencies and the chemical dependency treatment system, and the ability to provide the full array of services as stated in the mental health state plan, and shall meet all applicable federal and state regulations and standards. An existing regional support network shall be awarded the contract with the department if it substantially meets the requirements of the request for qualifications developed by the department.

(2)(a) If an existing regional support network chooses not to respond to the request for qualifications, or is unable to substantially meet the requirements of the request for qualifications, the department shall utilize a procurement process in which other entities recognized by the secretary may bid to serve as the regional support network in that region. The procurement process shall begin with a request for proposals issued March 1, 2006.

(i) The request for proposal shall include a scoring factor for proposals that include additional financial resources beyond that provided by state appropriation or allocation.

(ii) Regional support networks that substantially met the requirements of the request for qualifications may bid to serve as the regional support network for other regions of the state that are subject to the request for proposal process. The proposal shall be evaluated on whether the bid meets the threshold requirement for the new region and shall not subject the regional support networks' original region to the request for proposal.

(b) Prior to final evaluation and scoring of the proposals all respondents will be provided with an opportunity for a detailed briefing by the department regarding the deficiencies in the proposal and shall be provided an opportunity to clarify information previously submitted.

**Sec. 203.** RCW 71.24.330 and 2005 c 503 s 6 are each amended to read as follows:

(1) Contracts between a regional support network and the department shall include mechanisms for monitoring performance under the contract and remedies for failure to substantially comply with the requirements of the contract including, but not limited to, financial penalties, termination of the contract, and reprocurement of the contract.

(2) The procurement process shall encourage the preservation of infrastructure previously purchased by the community mental health service delivery system, the maintenance of linkages between other services and delivery systems, and maximization of the use of available funds for services versus profits. The procurement process shall provide that public funds appropriated by the legislature shall not be used to promote or deter, encourage, or discourage employees from exercising their rights under Title 29, chapter 7, subchapter II, United States Code or chapter 41.56 RCW.

(3) In addition to the requirements of RCW 71.24.035, contracts shall:

(a) Define administrative costs and ensure that the regional support network does not exceed an administrative cost of ten percent of available funds;

(b) Require effective collaboration with law enforcement, criminal justice agencies, and the chemical dependency treatment system;

(c) Require substantial implementation of department adopted integrated screening and assessment process and matrix of best practices; ~~((and))~~

(d) Maintain the decision-making independence of designated mental health professionals;

(e) Except at the discretion of the secretary or as specified in the biennial budget, require regional support networks to pay the state for the costs associated with individuals who are being served on the grounds of the state hospitals and who are not receiving long-term inpatient care as defined in RCW 71.24.025; and

(f) Include a negotiated alternative dispute resolution clause.

**Sec. 204.** RCW 72.23.025 and 1998 c 245 s 141 are each amended to read as follows:

(1) It is the intent of the legislature to improve the quality of service at state hospitals, eliminate overcrowding, and more specifically define the role of the state hospitals. The legislature intends that eastern and western state hospitals shall become clinical centers for handling the most complicated long-term care needs of patients with a primary diagnosis of mental disorder. ~~((Over the next six years, their involvement in providing short term, acute care, and less complicated long-term care shall be diminished in accordance with the revised responsibilities for mental health care under chapter 71.24 RCW.))~~ To this end, the legislature intends that funds appropriated for mental health programs, including funds for regional support networks and the state hospitals be used for persons with primary diagnosis of mental disorder. The legislature finds that establishment of the eastern state hospital board, the western state hospital board, and institutes for the study and treatment of mental disorders at both eastern state hospital and western state hospital will be instrumental in implementing the legislative intent.

(2)(a) The eastern state hospital board and the western state hospital board are each established. Members of the boards shall be appointed by the governor with the consent of the senate. Each board shall include:

(i) The director of the institute for the study and treatment of mental disorders established at the hospital;

(ii) One family member of a current or recent hospital resident;

(iii) One consumer of services;

(iv) One community mental health service provider;

(v) Two citizens with no financial or professional interest in mental health services;

(vi) One representative of the regional support network in which the hospital is located;

(vii) One representative from the staff who is a physician;

(viii) One representative from the nursing staff;

(ix) One representative from the other professional staff;

(x) One representative from the nonprofessional staff; and

(xi) One representative of a minority community.

(b) At least one representative listed in (a)(viii), (ix), or (x) of this subsection shall be a union member.

(c) Members shall serve four-year terms. Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 and shall receive compensation as provided in RCW 43.03.240.

(3) The boards established under this section shall:

(a) Monitor the operation and activities of the hospital;

(b) Review and advise on the hospital budget;

(c) Make recommendations to the governor and the legislature for improving the quality of service provided by the hospital;

(d) Monitor and review the activities of the hospital in implementing the intent of the legislature set forth in this section; and

(e) Consult with the secretary regarding persons the secretary may select as the superintendent of the hospital whenever a vacancy occurs.

(4)(a) There is established at eastern state hospital and western state hospital, institutes for the study and treatment of mental disorders. The institutes shall be operated by joint operating agreements between state colleges and universities and the department of social and health services. The institutes are intended to conduct training, research, and clinical program development activities that will directly benefit mentally ill persons receiving treatment in Washington state by performing the following activities:

(i) Promote recruitment and retention of highly qualified professionals at the state hospitals and community mental health programs;

(ii) Improve clinical care by exploring new, innovative, and scientifically based treatment models for persons presenting particularly difficult and complicated clinical syndromes;

(iii) Provide expanded training opportunities for existing staff at the state hospitals and community mental health programs;

(iv) Promote bilateral understanding of treatment orientation, possibilities, and challenges between state hospital professionals and community mental health professionals.

(b) To accomplish these purposes the institutes may, within funds appropriated for this purpose:

(i) Enter joint operating agreements with state universities or other institutions of higher education to accomplish the placement and training of students and faculty in psychiatry, psychology, social work, occupational therapy, nursing, and other relevant professions at the state hospitals and community mental health programs;

(ii) Design and implement clinical research projects to improve the quality and effectiveness of state hospital services and operations;

(iii) Enter into agreements with community mental health service providers to accomplish the exchange of professional staff between the state hospitals and community mental health service providers;

(iv) Establish a student loan forgiveness and conditional scholarship program to retain qualified professionals at the state hospitals and community mental health providers when the secretary has determined a shortage of such professionals exists.

(c) Notwithstanding any other provisions of law to the contrary, the institutes may enter into agreements with the department or the state hospitals which may involve changes in staffing necessary to implement improved patient care programs contemplated by this section.

(d) The institutes are authorized to seek and accept public or private gifts, grants, contracts, or donations to accomplish their purposes under this section.

### PART III INVOLUNTARY TREATMENT

**NEW SECTION. Sec. 301.** A new section is added to chapter 71.05 RCW to read as follows:

(1) Except for monetary damage claims which have been reduced to final judgment by a superior court, this section applies to all claims against the state, state agencies, state officials, or state employees that exist on or arise after the effective date of this section.

(2) Except as expressly provided in contracts entered into between the department and the regional support networks after the effective date of this section, the entities identified in subsection (3) of this section shall have no claim for declaratory relief, injunctive relief, judicial review under chapter 34.05 RCW, or civil liability against the state or state agencies for actions or inactions performed pursuant to the administration of this chapter with regard to the following: (a) The allocation or payment of federal or state funds; (b) the use or allocation of state hospital beds; or (c) financial responsibility for the provision of inpatient mental health care.

(3) This section applies to counties, regional support networks, and entities which contract to provide regional support network services and their subcontractors, agents, or employees.

**Sec. 302.** RCW 71.05.230 and 1998 c 297 s 13 are each amended to read as follows:

A person detained for seventy-two hour evaluation and treatment may be detained for not more than fourteen additional days of involuntary intensive treatment or ninety additional days of a less restrictive alternative to involuntary intensive treatment. There shall be no fee for filing petitions for fourteen days of involuntary intensive treatment. A petition may only be filed if the following conditions are met:

(1) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and finds that the condition is caused by mental disorder and either results in a likelihood of serious harm, or results in the detained person being gravely disabled and are prepared to testify those conditions are met; and

(2) The person has been advised of the need for voluntary treatment and the professional staff of the facility has evidence that he or she has not in good faith volunteered; and

(3) The facility providing intensive treatment is certified to provide such treatment by the department; and

(4) The professional staff of the agency or facility or the ((~~county~~)) designated mental health professional has filed a petition for fourteen day involuntary detention or a ninety day less restrictive alternative with the court. The petition must be signed either by two physicians or by one physician and a mental health professional who have examined the person. If involuntary detention is sought the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and that there are no less restrictive alternatives to detention in the best interest of such person or others. The petition shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than detention is not appropriate. If an involuntary less restrictive alternative is sought, the petition shall state facts that support the finding that such person, as a result of mental disorder, presents a likelihood of serious harm, or is gravely disabled and shall set forth the less restrictive alternative proposed by the facility; and

(5) A copy of the petition has been served on the detained person, his or her attorney and his or her guardian or conservator, if any, prior to the probable cause hearing; and

(6) The court at the time the petition was filed and before the probable cause hearing has appointed counsel to represent such person if no other counsel has appeared; and

(7) The court has ordered a fourteen day involuntary intensive treatment or a ninety day less restrictive alternative treatment after a probable cause hearing has been held pursuant to RCW 71.05.240; and

(8) At the conclusion of the initial commitment period, the professional staff of the agency or facility or the ((~~county~~)) designated mental health professional may petition for an additional period of either ninety days of less restrictive alternative treatment or ninety days of involuntary intensive treatment as provided in RCW 71.05.290; and

(9) If the hospital or facility designated to provide outpatient treatment is other than the facility providing involuntary treatment, the outpatient facility so designated has agreed to assume such responsibility.

**Sec. 303.** RCW 71.05.300 and 1998 c 297 s 17 are each amended to read as follows:

(1) The petition for ninety day treatment shall be filed with the clerk of the superior court at least three days before expiration of the fourteen-day period of intensive treatment. At the time of filing such petition, the clerk shall set a time for the person to come before the court on the next judicial day after the day of filing unless such appearance is waived by the person's attorney, and the clerk shall notify the ((~~county~~)) designated mental health professional. The ((~~county~~)) designated mental health professional shall immediately notify the person detained, his or her attorney, if any, and his or her guardian or conservator, if any, ((~~and~~)) the prosecuting attorney, and the regional support network administrator, and provide a copy of the petition to such persons as soon as possible. The

regional support network administrator or designee may review the petition and may appear and testify at the full hearing on the petition.

(2) At the time set for appearance the detained person shall be brought before the court, unless such appearance has been waived and the court shall advise him or her of his or her right to be represented by an attorney and of his or her right to a jury trial. If the detained person is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent him or her. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the detained person to examine and testify on behalf of the detained person.

(3) The court may, if requested, also appoint a professional person as defined in RCW 71.05.020 to seek less restrictive alternative courses of treatment and to testify on behalf of the detained person. In the case of a developmentally disabled person who has been determined to be incompetent pursuant to RCW 10.77.090(4), then the appointed professional person under this section shall be a developmental disabilities professional.

(4) The court shall also set a date for a full hearing on the petition as provided in RCW 71.05.310.

**Sec. 304.** RCW 71.05.320 and 1999 c 13 s 7 are each amended to read as follows:

(1) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven and that the best interests of the person or others will not be served by a less restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department for a further period of intensive treatment not to exceed ninety days from the date of judgment: PROVIDED, That

(a) If the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment in a facility certified for one hundred eighty day treatment by the department.

(b) If the committed person is developmentally disabled and has been determined incompetent pursuant to RCW 10.77.090(4), and the best interests of the person or others will not be served by a less-restrictive treatment which is an alternative to detention, the court shall remand him or her to the custody of the department or to a facility certified for one hundred eighty-day treatment by the department. When appropriate and subject to available funds, treatment and training of such persons must be provided in a program specifically reserved for the treatment and training of developmentally disabled persons. A person so committed shall receive habilitation services pursuant to an individualized service plan specifically developed to treat the behavior which was the subject of the criminal proceedings. The treatment program shall be administered by developmental disabilities professionals and others trained specifically in the needs of developmentally disabled persons. The department may limit admissions to this specialized program in order to ensure that expenditures for services do not exceed amounts appropriated by the legislature and allocated by the department for such services. The department may establish admission priorities in the event that the number of eligible persons exceeds the limits set

by the department. An order for treatment less restrictive than involuntary detention may include conditions, and if such conditions are not adhered to, the designated mental health professional or developmental disabilities professional may order the person apprehended under the terms and conditions of RCW 71.05.340.

(2) If the court or jury finds that grounds set forth in RCW 71.05.280 have been proven, but finds that treatment less restrictive than detention will be in the best interest of the person or others, then the court shall remand him or her to the custody of the department or to a facility certified for ninety day treatment by the department or to a less restrictive alternative for a further period of less restrictive treatment not to exceed ninety days from the date of judgment: PROVIDED, That if the grounds set forth in RCW 71.05.280(3) are the basis of commitment, then the period of treatment may be up to but not exceed one hundred eighty days from the date of judgment.

~~((2))~~ (3) The person shall be released from involuntary treatment at the expiration of the period of commitment imposed under subsection (1) or (2) of this section unless the superintendent or professional person in charge of the facility in which he or she is confined, or in the event of a less restrictive alternative, the designated mental health professional or developmental disabilities professional, files a new petition for involuntary treatment on the grounds that the committed person;

(a) During the current period of court ordered treatment: (i) Has threatened, attempted, or inflicted physical harm upon the person of another, or substantial damage upon the property of another, and (ii) as a result of mental disorder or developmental disability presents a likelihood of serious harm; or

(b) Was taken into custody as a result of conduct in which he or she attempted or inflicted serious physical harm upon the person of another, and continues to present, as a result of mental disorder or developmental disability a likelihood of serious harm; or

(c) Is in custody pursuant to RCW 71.05.280(3) and as a result of mental disorder or developmental disability presents a substantial likelihood of repeating similar acts considering the charged criminal behavior, life history, progress in treatment, and the public safety; or

(d) Continues to be gravely disabled.

If the conduct required to be proven in (b) and (c) of this subsection was found by a judge or jury in a prior trial under this chapter, it shall not be necessary to reprove that element. Such new petition for involuntary treatment shall be filed and heard in the superior court of the county of the facility which is filing the new petition for involuntary treatment unless good cause is shown for a change of venue. The cost of the proceedings shall be borne by the state.

The hearing shall be held as provided in RCW 71.05.310, and if the court or jury finds that the grounds for additional confinement as set forth in this subsection are present, the court may order the committed person returned for an additional period of treatment not to exceed one hundred eighty days from the date of judgment. At the end of the one hundred eighty day period of commitment, the committed person shall be released unless a petition for another one hundred eighty day period of continued treatment is filed and heard in the same manner as provided in this subsection. Successive one hundred



eighty day commitments are permissible on the same grounds and pursuant to the same procedures as the original one hundred eighty day commitment.

~~((3))~~ (4) No person committed as provided in this section may be detained unless a valid order of commitment is in effect. No order of commitment can exceed one hundred eighty days in length.

#### PART IV MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 401. RCW 71.05.550 (Recognition of county financial necessities) and 2005 c 504 s 218 & 1973 1st ex.s. c 142 s 60 are each repealed.

NEW SECTION. Sec. 402. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 403. Part headings used in this act are not part of the law.

NEW SECTION. Sec. 404. This act takes effect July 1, 2006, except that sections 101 through 103, 107, 202, and 301 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed by the Senate March 8, 2006.

Passed by the House March 8, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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#### CHAPTER 334

[Engrossed Substitute Senate Bill 6800]

#### TRANSPORTATION GOVERNANCE

AN ACT Relating to streamlining state transportation governance; amending RCW 47.01.051, 47.01.061, 47.01.071, 47.01.075, 47.01.091, 47.01.101, 47.01.280, 47.05.021, 36.57A.191, 36.78.121, 36.79.120, 36.79.130, 36.120.020, 43.10.101, 46.44.042, 46.44.080, 46.44.090, 46.44.092, 46.44.096, 46.61.450, 46.68.113, 47.28.010, 47.28.170, 47.38.060, 47.52.133, 47.52.145, 47.52.210, 81.112.086, 36.56.121, 36.57A.070, 47.10.861, 47.10.862, 47.10.843, 47.10.844, 47.10.834, 47.10.835, 47.10.819, 47.10.820, 47.02.120, 47.02.140, 47.17.132, 47.24.010, 47.05.030, 47.05.035, 47.05.051, and 47.29.010; reenacting and amending RCW 43.88.030; adding a new section to chapter 47.01 RCW; adding new sections to chapter 47.29 RCW; repealing RCW 44.75.010, 44.75.020, 44.75.030, 44.75.040, 44.75.050, 44.75.060, 44.75.070, 44.75.080, 44.75.090, 44.75.100, 44.75.110, 44.75.120, 44.75.800, 44.75.900, and 44.75.901; and providing an effective date.

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

**Sec. 1.** RCW 47.01.051 and 1977 ex.s. c 151 s 5 are each amended to read as follows:

There is hereby created a transportation commission, which shall consist of seven voting members appointed by the governor, with the consent of the senate. The present five members of the highway commission shall serve as five initial members of the transportation commission until their terms of office as highway commission members would have expired. The additional two members

provided herein for the transportation commission shall be appointed for initial terms to expire on June 30, 1982, and June 30, 1983. Thereafter all terms shall be for six years. No elective state official (~~(or)~~), state officer, or state employee shall be a member of the commission (~~(, and not more than four members of the commission shall at the time of appointment or thereafter during their respective terms of office be members of the same major political party)~~). At the time of appointment or thereafter during their respective terms of office, four members of the commission shall reside in the western part of the state and three members shall reside in the eastern part of the state as divided north and south by the summit of the Cascade mountains. No more than two members of the commission shall reside in the same county; however, the governor, or his or her designee, shall serve as a nonvoting member of the commission. Commission appointments should reflect both a wide range of transportation interests and a balanced statewide geographic representation. Commissioners (~~shall not~~) may be removed from office by the governor before the expiration of their terms (~~(unless for a disqualifying change of residence or for cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office by the superior court of the state of Washington in and for Thurston county upon petition and show cause proceedings duly brought therefor in said court and directed to the commissioner in question)~~) for cause. No member shall be appointed for more than two consecutive terms.

**Sec. 2.** RCW 47.01.061 and 2005 c 319 s 4 are each amended to read as follows:

(1) The commission shall meet at such times as it deems advisable but at least (~~once every month~~) on a quarterly basis with meetings to be held in different parts of the state. It may adopt its own rules and regulations and may establish its own procedure. It shall act collectively in harmony with recorded resolutions or motions adopted by majority vote of at least four members. The commission may appoint an (~~administrative secretary~~) executive director, and shall elect one of its members (~~chairman~~) chair for a term of one year. The (~~chairman shall be able to~~) chair may vote on all matters before the commission. The commission may from time to time retain planners, consultants, and other technical personnel to advise it in the performance of its duties.

(2) The commission shall submit to each regular session of the legislature held in an odd-numbered year its own budget proposal necessary for the commission's operations separate from that proposed for the department.

(3) Each member of the commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the secretary of transportation, but in no event shall (~~a commissioner be compensated in any year for more than one hundred twenty days, except the chairman of the commission who may be paid compensation for not more than one hundred fifty days~~) the entire commission membership be compensated for more than one thousand two hundred thirty days combined. Service on the commission shall not be considered as service credit for the purposes of any public retirement system.

(4) Each member of the commission shall disclose any actual or potential conflict of interest, if applicable under the circumstance, regarding any commission business.

**Sec. 3.** RCW 47.01.071 and 2005 c 319 s 5 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate the policies shall provide for the use of integrated, intermodal transportation systems to implement the social, economic, and environmental policies, goals, and objectives of the people of the state, and especially to conserve nonrenewable natural resources including land and energy. To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) Propose a transportation policy for the state;

(d) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature;

(e) To integrate the statewide transportation plan with the needs of the elderly and handicapped, and to coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;

(3) In conjunction with the provisions under RCW 47.01.075, to provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

(4) To prepare a comprehensive and balanced statewide transportation plan which shall be based on the transportation policy adopted by the governor and the legislature, and applicable state and federal laws. The plan must reflect the priorities of government developed by the office of financial management and address regional needs, including multimodal transportation planning. The plan shall be reviewed and revised, and submitted to the governor and the house of representatives and senate standing committees on transportation, prior to each regular session of the legislature during an even-numbered year thereafter. The plan shall be subject to the approval of the legislature in the biennial transportation budget act.

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities;

(5) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;

~~(6) ((To approve the issuance and sale of all bonds authorized by the legislature for capital construction of state highways, toll facilities, Columbia Basin county roads (for which reimbursement to the motor vehicle fund has been provided), urban arterial projects, and aviation facilities;~~

~~(7))~~ To adopt such rules(~~, regulations, and policy directives~~) as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

~~((8))~~ (7) To contract with the office of financial management or other appropriate state agencies for administrative support, accounting services, computer services, and other support services necessary to carry out its other statutory duties;

(8) To conduct transportation-related studies and policy analysis to the extent directed by the legislature or governor in the biennial transportation budget act, or as otherwise provided in law, and subject to the availability of amounts appropriated for this specific purpose; and

(9) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law.

**Sec. 4.** RCW 47.01.075 and 2005 c 319 s 6 are each amended to read as follows:

(1) The transportation commission shall provide a public forum for the development of transportation policy in Washington state to include coordination with regional transportation planning organizations, transportation stakeholders, counties, cities, and citizens. It may recommend to the secretary of transportation, the governor, and the legislature means for obtaining appropriate citizen and professional involvement in all transportation policy formulation and other matters related to the powers and duties of the department. It may further hold hearings and explore ways to improve the mobility of the citizenry. At least every five years, the commission shall convene regional forums to gather citizen input on transportation issues.

(2) Every two years, in coordination with the development of the state biennial budget, the commission shall prepare the statewide multimodal transportation progress report ~~((that outlines the))~~ and propose to the office of financial management transportation priorities ~~((of))~~ for the ensuing biennium. The report must:

(a) Consider the citizen input gathered at the forums;

(b) Be developed with the assistance of state transportation-related agencies and organizations;

(c) Be developed with the input from state, local, and regional jurisdictions, transportation service providers, ~~((and))~~ key transportation stakeholders, and the office of financial management;

(d) Be considered by the secretary of transportation and other state transportation-related agencies in preparing proposed agency budgets and executive request legislation;

(e) Be submitted by the commission to the governor and the legislature by October 1st of each even-numbered year for consideration by the governor.

(3) In fulfilling its responsibilities under this section, the commission may create ad hoc committees or other such committees of limited duration as necessary.

(4) In order to promote a better transportation system, the commission shall offer policy guidance and make recommendations to the governor and the legislature in key issue areas, including but not limited to:

- (a) Transportation finance;
- (b) Preserving, maintaining, and operating the statewide transportation system;
- (c) Transportation infrastructure needs;
- (d) Promoting best practices for adoption and use by transportation-related agencies and programs;
- (e) Transportation efficiencies that will improve service delivery and/or coordination;
- (f) Improved planning and coordination among transportation agencies and providers; ~~((and))~~
- (g) Use of intelligent transportation systems and other technology-based solutions; and
- (h) Reporting of performance against goals, targets, and benchmarks.

**Sec. 5.** RCW 47.01.091 and 1977 ex.s. c 151 s 9 are each amended to read as follows:

The secretary shall establish such advisory councils as are necessary to carry out the purposes of this ~~((1977 amendatory act))~~ title, and to insure adequate public participation in the planning and development of transportation facilities. Members of such councils shall serve at the pleasure of the secretary and may receive per diem and necessary expenses, in accordance with RCW 43.03.050 and 43.03.060, as now or hereafter amended.

**Sec. 6.** RCW 47.01.101 and 2005 c 319 s 7 are each amended to read as follows:

The secretary shall have the authority and it shall be his or her duty:

- (1) To serve as chief executive officer of the department with full administrative authority to direct all its activities;
- (2) To organize the department as he or she may deem necessary to carry out the work and responsibilities of the department effectively;
- (3) To designate and establish such transportation district, region, or branch offices as may be necessary or convenient, and to appoint assistants and delegate any powers, duties, and functions to them or any officer or employee of the department as deemed necessary to administer the department efficiently;
- (4) To direct and coordinate the programs of the various divisions of the department to assure that they achieve the greatest possible mutual benefit, produce a balanced overall effort, and eliminate unnecessary duplication of activity;
- (5) To adopt all department rules that are subject to the adoption procedures contained in the state administrative procedure act, except rules subject to adoption by the commission pursuant to statute;
- (6) To maintain and safeguard the official records of the department, including the commission's recorded resolutions and orders;

(7) To provide, under contract or interagency agreement, ~~((full))~~ staff support to the commission, including long-term technical and administrative support as needed, to assist it in carrying out its functions, powers, and duties;

(8) To execute and implement the biennial operating budget for the operation of the department in accordance with chapter 43.88 RCW and with legislative appropriation;

(9) To advise the governor and the legislature with respect to matters under the jurisdiction of the department; and

(10) To exercise all other powers and perform all other duties as are now or hereafter provided by law.

**Sec. 7.** RCW 47.01.280 and 2005 c 319 s 121 are each amended to read as follows:

(1) Upon receiving an application for improvements to an existing state highway or highways pursuant to RCW 43.160.074 from the community economic revitalization board, the ~~((transportation commission))~~ department shall, in a timely manner, determine whether or not the proposed state highway improvements:

(a) Meet the safety and design criteria of the department of transportation;

(b) Will impair the operational integrity of the existing highway system; and

(c) Will affect any other improvements planned by the department~~((; and~~

~~((d) Will be consistent with its policies developed pursuant to RCW 47.01.071)).~~

(2) Upon completion of its determination of the factors contained in subsection (1) of this section and any other factors it deems pertinent, the ~~((transportation commission))~~ department shall forward its approval, as submitted or amended or disapproval of the proposed improvements to the board, along with any recommendation it may wish to make concerning the desirability and feasibility of the proposed development. If the ~~((transportation commission))~~ department disapproves any proposed improvements, it shall specify its reasons for disapproval.

(3) Upon notification from the board of an application's approval pursuant to RCW 43.160.074, the ~~((transportation commission))~~ department shall ~~((direct the department of transportation to))~~ carry out the improvements in coordination with the applicant.

**Sec. 8.** RCW 47.05.021 and 2005 c 319 s 8 are each amended to read as follows:

(1) The department shall conduct periodic analyses of the entire state highway system~~((;))~~ and report to the ~~((commission))~~ office of financial management and the chairs of the transportation committees of the senate and house of representatives, any subsequent recommendations to subdivide, classify, and subclassify all designated state highways into the following three functional classes:

(a) The "principal arterial system" shall consist of a connected network of rural arterial routes with appropriate extensions into and through urban areas, including all routes designated as part of the interstate system, which serve corridor movements having travel characteristics indicative of substantial statewide and interstate travel;

(b) The "minor arterial system" shall, in conjunction with the principal arterial system, form a rural network of arterial routes linking cities and other activity centers which generate long distance travel, and, with appropriate extensions into and through urban areas, form an integrated network providing interstate and interregional service; and

(c) The "collector system" shall consist of routes which primarily serve the more important intercounty, intracounty, and intraurban travel corridors, collect traffic from the system of local access roads and convey it to the arterial system, and on which, regardless of traffic volume, the predominant travel distances are shorter than on arterial routes.

(2) The ~~((transportation commission))~~ department shall adopt a functional classification of highways. The ~~((commission))~~ department shall consider ~~((the recommendations of the department and testimony))~~ comments from the public and local municipalities. The ~~((commission))~~ department shall give consideration to criteria consistent with this section and federal regulations relating to the functional classification of highways, including but not limited to the following:

(a) Urban population centers within and without the state stratified and ranked according to size;

(b) Important traffic generating economic activities, including but not limited to recreation, agriculture, government, business, and industry;

(c) Feasibility of the route, including availability of alternate routes within and without the state;

(d) Directness of travel and distance between points of economic importance;

(e) Length of trips;

(f) Character and volume of traffic;

(g) Preferential consideration for multiple service which shall include public transportation;

(h) Reasonable spacing depending upon population density; and

(i) System continuity.

(3) The ~~((transportation commission))~~ department or the legislature shall designate state highways of statewide significance under RCW 47.06.140. If the ~~((commission))~~ department designates a state highway of statewide significance, it shall submit a list of such facilities for adoption by the legislature. This statewide system shall include at a minimum interstate highways and other statewide principal arterials that are needed to connect major communities across the state and support the state's economy.

(4) The ~~((transportation commission))~~ department shall designate a freight and goods transportation system. This statewide system shall include state highways, county roads, and city streets. The ~~((commission))~~ department, in cooperation with cities and counties, shall review and make recommendations to the legislature regarding policies governing weight restrictions and road closures which affect the transportation of freight and goods.

**Sec. 9.** RCW 36.57A.191 and 2003 c 363 s 304 are each amended to read as follows:

As a condition of receiving state funding, a public transportation benefit area authority shall submit a maintenance and preservation management plan for certification by the department of transportation ~~((commission or its successor~~

entity)). The plan must inventory all transportation system assets within the direction and control of the authority, and provide a preservation plan based on lowest life-cycle cost methodologies.

**Sec. 10.** RCW 36.78.121 and 2003 c 363 s 307 are each amended to read as follows:

The county road administration board, or its successor entity, shall establish a standard of good practice for maintenance of transportation system assets. This standard must be implemented by all counties no later than December 31, 2007. The board shall develop a model maintenance management system for use by counties. The board shall develop rules to assist the counties in the implementation of this system. Counties shall annually submit their maintenance plans to the board. The board shall compile the county data regarding maintenance management and annually submit it to the ~~((transportation commission or its successor entity))~~ office of financial management.

**Sec. 11.** RCW 36.79.120 and 1988 c 26 s 6 are each amended to read as follows:

Counties receiving funds from the rural arterial trust account for construction of arterials and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas shall provide such matching funds as established by rules recommended by the board, subject to review, revision, and final approval by the ~~((state transportation commission))~~ office of financial management. Matching requirements shall be established after appropriate studies by the board, taking into account financial resources available to counties to meet arterial needs.

**Sec. 12.** RCW 36.79.130 and 1983 1st ex.s. c 49 s 13 are each amended to read as follows:

Not later than November 1st of each even-numbered year the board shall prepare and present to the ~~((state transportation commission))~~ office of financial management a recommended budget for expenditures from the rural arterial trust account during the ensuing biennium. The budget shall contain an estimate of the revenues to be credited to the rural arterial trust account.

The ~~((state transportation commission))~~ office of financial management shall review the budget as recommended, revise the budget as it deems proper, and include the budget as revised as a separate section of the transportation budget which it shall submit to the governor pursuant to chapter 43.88 RCW.

**Sec. 13.** RCW 36.120.020 and 2002 c 56 s 102 are each amended to read as follows:

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

(1) "Board" means the governing body of a regional transportation investment district.

(2) "Department" means the Washington state department of transportation.

(3) "Highway of statewide significance" means an existing or proposed state route or federal interstate designated as a highway of statewide significance by the transportation commission, ~~((its successor entity))~~ the department, or the legislature.



(4) "Lead agency" means a public agency that by law can plan, design, and build a transportation project and has been so designated by the district.

(5) "Regional transportation investment district" or "district" means a municipal corporation whose boundaries are coextensive with two or more contiguous counties and that has been created by county legislative authorities and a vote of the people under this chapter to implement a regional transportation investment plan.

(6) "Regional transportation investment district planning committee" or "planning committee" means the advisory committee created under RCW 36.120.030 to create and propose to county legislative authorities a regional transportation investment plan to develop, finance, and construct transportation projects.

(7) "Regional transportation investment plan" or "plan" means a plan to develop, construct, and finance a transportation project or projects.

(8) "Transportation project" means:

(a) A capital improvement or improvements to a highway that has been designated, in whole or in part, as a highway of statewide significance, including an extension, that:

(i) Adds a lane or new lanes to an existing state or federal highway; or

(ii) Repairs or replaces a lane or lanes damaged by an event declared an emergency by the governor before January 1, 2002.

(b) A capital improvement or improvements to all or a portion of a highway of statewide significance, including an extension, and may include the following associated multimodal capital improvements:

(i) Approaches to highways of statewide significance;

(ii) High-occupancy vehicle lanes;

(iii) Flyover ramps;

(iv) Park and ride lots;

(v) Bus pullouts;

(vi) Vans for vanpools;

(vii) Buses; and

(viii) Signalization, ramp metering, and other transportation system management improvements.

(c) A capital improvement or improvements to all or a portion of a city street, county road, or existing highway or the creation of a new highway that intersects with a highway of statewide significance, if all of the following conditions are met:

(i) The project is included in a plan that makes highway improvement projects that add capacity to a highway or highways of statewide significance;

(ii) The secretary of transportation determines that the project would better relieve traffic congestion than investing that same money in adding capacity to a highway of statewide significance;

(iii) Matching money equal to one-third of the total cost of the project is provided by local entities, including but not limited to a metropolitan planning organization, county, city, port, or private entity in which a county participating in a plan is located. Local entities may use federal grants to meet this matching requirement;

(iv) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed ten percent of the revenues generated by the district;

(v) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed one billion dollars; and

(vi) The specific projects are included within the plan and submitted as part of the plan to a vote of the people.

(d) Operations, preservation, and maintenance are excluded from this definition and may not be included in a regional transportation investment plan.

(9) "Weighted vote" means a vote that reflects the population each board or planning committee member represents relative to the population represented by the total membership of the board or planning committee. Population will be determined using the federal 2000 census or subsequent federal census data.

**Sec. 14.** RCW 43.10.101 and 2005 c 319 s 104 are each amended to read as follows:

The attorney general shall prepare annually a report to the transportation committees of the legislature, the governor, the department of transportation, and the transportation commission~~(, and the transportation performance audit board)~~ comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

- (1) A summary of the factual background of the case;
- (2) Identification of the attorneys representing the state and the opposing parties;
- (3) A synopsis of the legal theories asserted and the defenses presented;
- (4) Whether the case was tried, settled, or dismissed, and in whose favor;
- (5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and
- (6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims.

**Sec. 15.** RCW 46.44.042 and 1996 c 116 s 1 are each amended to read as follows:

Subject to the maximum gross weights specified in RCW 46.44.041, it is unlawful to operate any vehicle upon the public highways with a gross weight, including load, upon any tire concentrated upon the surface of the highway in excess of six hundred pounds per inch width of such tire. An axle manufactured after July 31, 1993, carrying more than ten thousand pounds gross weight must be equipped with four or more tires. ~~((Effective January 1, 1997,))~~ An axle carrying more than ten thousand pounds gross weight must have four or more tires, regardless of date of manufacture. Instead of the four or more tires per axle requirements of this section, an axle may be equipped with two tires limited to five hundred pounds per inch width of tire. This section does not apply to vehicles operating under oversize or overweight permits, or both, issued under RCW 46.44.090, while carrying a nonreducible load.

The following equipment may operate at six hundred pounds per inch width of tire: (1) A nonliftable steering axle or axles on the power unit; (2) a tiller axle on fire fighting apparatus; (3) a rear booster trailing axle equipped with two tires on a ready-mix concrete transit truck; and (4) a straddle trailer manufactured before January 1, 1996, equipped with single-tire axles or a single axle using a walking beam supported by two in-line single tires and used exclusively for the transport of fruit bins between field, storage, and processing. A straddle trailer manufactured after January 1, 1996, meeting this use criteria may carry five hundred fifteen pounds per inch width of tire on sixteen and one-half inch wide tires.

For the purpose of this section, the width of tire in case of solid rubber or hollow center cushion tires, so long as the use thereof may be permitted by the law, shall be measured between the flanges of the rim. For the purpose of this section, the width of tires in case of pneumatic tires shall be the maximum overall normal inflated width as stipulated by the manufacturer when inflated to the pressure specified and without load thereon.

The department of transportation, (~~under rules adopted by the transportation commission~~) **by rule** with respect to state highways, and a local authority, with respect to a public highway under its jurisdiction, may extend the weight table in RCW 46.44.041 to one hundred fifteen thousand pounds. However, the extension must be in compliance with federal law, and vehicles operating under the extension must be in full compliance with the 1997 axle and tire requirements under this section.

**Sec. 16.** RCW 46.44.080 and 1977 ex.s. c 151 s 29 are each amended to read as follows:

Local authorities with respect to public highways under their jurisdiction may prohibit the operation thereon of motor trucks or other vehicles or may impose limits as to the weight thereof, or any other restrictions as may be deemed necessary, whenever any such public highway by reason of rain, snow, climatic or other conditions, will be seriously damaged or destroyed unless the operation of vehicles thereon be prohibited or restricted or the permissible weights thereof reduced: PROVIDED, That whenever a highway has been closed generally to vehicles or specified classes of vehicles, local authorities shall by general rule or by special permit authorize the operation thereon of school buses, emergency vehicles, and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under such weight and speed restrictions as the local authorities deem necessary to protect the highway from undue damage: PROVIDED FURTHER, That the governing authorities of incorporated cities and towns shall not prohibit the use of any city street designated (~~by the transportation commission as forming~~) a part of the route of any primary state highway through any such incorporated city or town by vehicles or any class of vehicles or impose any restrictions or reductions in permissible weights unless such restriction, limitation, or prohibition, or reduction in permissible weights be first approved in writing by the department of transportation.

The local authorities imposing any such restrictions or limitations, or prohibiting any use or reducing the permissible weights shall do so by proper ordinance or resolution and shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution in each end of the

portion of any public highway affected thereby, and no such ordinance or resolution shall be effective unless and until such signs are erected and maintained.

The department shall have the same authority as hereinabove granted to local authorities to prohibit or restrict the operation of vehicles upon state highways. The department shall give public notice of closure or restriction. The department may issue special permits for the operation of school buses and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under specified weight and speed restrictions as may be necessary to protect any state highway from undue damage.

**Sec. 17.** RCW 46.44.090 and 2001 c 262 s 1 are each amended to read as follows:

The department of transportation, pursuant to its rules (~~adopted by the transportation commission~~) with respect to state highways, and local authorities, with respect to public highways under their jurisdiction, may, upon application in writing and good cause being shown therefor, issue a special permit in writing, or electronically, authorizing the applicant to operate or move a vehicle or combination of vehicles of a size, weight of vehicle, or load exceeding the maximum set forth in RCW 46.44.010, 46.44.020, 46.44.030, 46.44.034, and 46.44.041 upon any public highway under the jurisdiction of the authority granting such permit and for the maintenance of which such authority is responsible.

**Sec. 18.** RCW 46.44.092 and 1989 c 398 s 2 are each amended to read as follows:

Special permits may not be issued for movements on any state highway outside the limits of any city or town in excess of the following widths:

On two-lane highways, fourteen feet;

On multiple-lane highways where a physical barrier serving as a median divider separates opposing traffic lanes, twenty feet;

On multiple-lane highways without a physical barrier serving as a median divider, thirty-two feet.

These limits apply except under the following conditions:

(1) In the case of buildings, the limitations referred to in this section for movement on any two lane state highway other than the national system of interstate and defense highways may be exceeded under the following conditions: (a) Controlled vehicular traffic shall be maintained in one direction at all times; (b) the maximum distance of movement shall not exceed five miles; additional contiguous permits shall not be issued to exceed the five-mile limit: PROVIDED, That when the department of transportation (~~pursuant to general rules adopted by the transportation commission~~) determines a hardship would result, this limitation may be exceeded upon approval of the department of transportation; (c) prior to issuing a permit a qualified transportation department employee shall make a visual inspection of the building and route involved determining that the conditions listed herein shall be complied with and that structures or overhead obstructions may be cleared or moved in order to maintain a constant and uninterrupted movement of the building; (d) special escort or other precautions may be imposed to assure movement is made under

the safest possible conditions, and the Washington state patrol shall be advised when and where the movement is to be made;

(2) Permits may be issued for widths of vehicles in excess of the preceding limitations on highways or sections of highways which have been designed and constructed for width in excess of such limitations;

(3) Permits may be issued for vehicles with a total outside width, including the load, of nine feet or less when the vehicle is equipped with a mechanism designed to cover the load pursuant to RCW 46.61.655;

(4) These limitations may be rescinded when certification is made by military officials, or by officials of public or private power facilities, or when in the opinion of the department of transportation the movement or action is a necessary movement or action: PROVIDED FURTHER, That in the judgment of the department of transportation the structures and highway surfaces on the routes involved are capable of sustaining widths in excess of such limitation;

(5) These limitations shall not apply to movement during daylight hours on any two lane state highway where the gross weight, including load, does not exceed eighty thousand pounds and the overall width of load does not exceed sixteen feet: PROVIDED, That the minimum and maximum speed of such movements, prescribed routes of such movements, the times of such movements, limitation upon frequency of trips (which limitation shall be not less than one per week), and conditions to assure safety of traffic may be prescribed by the department of transportation or local authority issuing such special permit.

The applicant for any special permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular state highways for which permit to operate is requested and whether such permit is requested for a single trip or for continuous operation.

**Sec. 19.** RCW 46.44.096 and 1996 c 92 s 1 are each amended to read as follows:

In determining fees according to RCW 46.44.0941, mileage on state primary and secondary highways shall be determined from the planning survey records of the department of transportation, and the gross weight of the vehicle or vehicles, including load, shall be declared by the applicant. Overweight on which fees shall be paid will be gross loadings in excess of loadings authorized by law or axle loadings in excess of loadings authorized by law, whichever is the greater. Loads which are overweight and oversize shall be charged the fee for the overweight permit without additional fees being assessed for the oversize features.

Special permits issued under RCW 46.44.047, 46.44.0941, or 46.44.095, may be obtained from offices of the department of transportation, ports of entry, or other agents appointed by the department.

The department may appoint agents for the purposes of selling special motor vehicle permits, temporary additional tonnage permits, and log tolerance permits. Agents so appointed may retain three dollars and fifty cents for each permit sold to defray expenses incurred in handling and selling the permits. If the fee is collected by the department of transportation, the department shall certify the fee so collected to the state treasurer for deposit to the credit of the motor vehicle fund.

The department may select a third party contractor, by means of competitive bid, to perform the department's permit issuance function, as provided under

RCW 46.44.090. Factors the department shall consider, but is not limited to, in the selection of a third party contractor are economic benefit to both the department and the motor carrier industry, and enhancement of the overall level of permit service. For purposes of this section, "third party contractor" means a business entity that is authorized by the department to issue special permits. The department of transportation (~~commission~~) may adopt rules specifying the criteria that a business entity must meet in order to qualify as a third party contractor under this section.

Fees established in RCW 46.44.0941 shall be paid to the political body issuing the permit if the entire movement is to be confined to roads, streets, or highways for which that political body is responsible. When a movement involves a combination of state highways, county roads, and/or city streets the fee shall be paid to the (~~state~~) department of transportation. When a movement is confined within the city limits of a city or town upon city streets, including routes of state highways on city streets, all fees shall be paid to the city or town involved. A permit will not be required from city or town authorities for a move involving a combination of city or town streets and state highways when the move through a city or town is being confined to the route of the state highway. When a move involves a combination of county roads and city streets the fee shall be paid to the county authorities, but the fee shall not be collected nor the county permit issued until valid permits are presented showing that the city or town authorities approve of the move in question. When the movement involves only county roads the fees collected shall be paid to the county involved. Fees established shall be paid to the political body issuing the permit if the entire use of the vehicle during the period covered by the permit shall be confined to the roads, streets, or highways for which that political body is responsible.

**Sec. 20.** RCW 46.61.450 and 1977 ex.s. c 151 s 39 are each amended to read as follows:

It shall be unlawful for any person to operate a vehicle or any combination of vehicles over any bridge or other elevated structure or through any tunnel or underpass constituting a part of any public highway at a rate of speed or with a gross weight or of a size which is greater at any time than the maximum speed or maximum weight or size which can be maintained or carried with safety over any such bridge or structure or through any such tunnel or underpass when such bridge, structure, tunnel, or underpass is sign posted as hereinafter provided. The secretary of transportation, if it be a bridge, structure, tunnel, or underpass upon a state highway, or the governing body or authorities of any county, city, or town, if it be upon roads or streets under their jurisdiction, may restrict the speed which may be maintained or the gross weight or size which may be operated upon or over any such bridge or elevated structure or through any such tunnel or underpass with safety thereto. The secretary or the governing body or authorities of any county, city, or town having jurisdiction shall determine and declare the maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate and shall cause suitable signs stating such maximum speed or maximum gross weight, or size, or either, to be erected and maintained on the right hand side of such highway, road, or street and at a distance of not less than one hundred feet from each end of such bridge, structure, tunnel, or underpass and on the approach thereto: PROVIDED, That in the event that any such bridge, elevated

structure, tunnel, or underpass is upon a city street designated by the department of transportation (~~(commission)~~) as forming a part of the route of any state highway through any such incorporated city or town the determination of any maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate shall not be enforceable at any speed, weight, or size less than the maximum allowed by law, unless with the approval in writing of the secretary. Upon the trial of any person charged with a violation of this section, proof of either violation of maximum speed or maximum weight, or size, or either, and the distance and location of such signs as are required, shall constitute conclusive evidence of the maximum speed or maximum weight, or size, or either, which can be maintained or carried with safety over such bridge or elevated structure or through such tunnel or underpass.

**Sec. 21.** RCW 46.68.113 and 2003 c 363 s 305 are each amended to read as follows:

During the 2003-2005 biennium, cities and towns shall provide to the transportation commission, or its successor entity, preservation rating information on at least seventy percent of the total city and town arterial network. Thereafter, the preservation rating information requirement shall increase in five percent increments in subsequent biennia. The rating system used by cities and towns must be based upon the Washington state pavement rating method or an equivalent standard approved by the department of transportation (~~(commission or its successor entity)~~). Beginning January 1, 2007, the preservation rating information shall be submitted to the department.

**Sec. 22.** RCW 47.28.010 and 1977 ex.s. c 151 s 59 are each amended to read as follows:

Whenever the general route of any state highway shall be designated and laid out as running to or by way of certain designated points, without specifying the particular route to be followed to or by way of such points, the (~~(transportation commission)~~) department shall determine the particular route to be followed by said state highway to or by way of said designated points, and shall be at liberty to select and adopt as a part of such state highway, the whole or any part of any existing public highway previously designated as a county road, primary road, or secondary road or now or hereafter classified as a county road. The (~~(commission)~~) department need not select and adopt the entire routes for such state highways at one time, but may select and adopt parts of such routes from time to time as it deems advisable. Where a state highway is designated as passing by way of a certain point, this shall not require the (~~(commission)~~) department to cause such state highway to pass through or touch such point but such designation is directional only and may be complied with by location in the general vicinity. The department (~~(of transportation)~~) is empowered to construct as a part of any state highway as designated and in addition to any portion meeting the limits of any incorporated city or town a bypass section either through or around any such incorporated city or town.

**Sec. 23.** RCW 47.28.170 and 1990 c 265 s 1 are each amended to read as follows:

(1) Whenever the department finds that as a consequence of accident, natural disaster, or other emergency, an existing state highway is in jeopardy or

is rendered impassible in one or both directions and the department further finds that prompt reconstruction, repair, or other work is needed to preserve or restore the highway for public travel, the department may obtain at least three written bids for the work without publishing a call for bids, and the secretary of transportation may award a contract forthwith to the lowest responsible bidder.

The department shall notify any association or organization of contractors filing a request to regularly receive notification. Notification to an association or organization of contractors shall include: (a) The location of the work to be done; (b) the general anticipated nature of the work to be done; and (c) the date determined by the department as reasonable in view of the nature of the work and emergent nature of the problem after which the department will not receive bids.

(2) Whenever the department finds it necessary to protect a highway facility from imminent damage or to perform emergency work to reopen a highway facility, the department may contract for such work on a negotiated basis not to exceed force account rates for a period not to exceed thirty working days.

(3) The secretary shall review any contract exceeding ~~((two))~~ seven hundred thousand dollars awarded under subsection (1) or (2) of this section with the ~~((transportation commission at its next regularly scheduled meeting))~~ office of financial management within thirty days of the contract award.

(4) Any person, firm, or corporation awarded a contract for work must be prequalified pursuant to RCW 47.28.070 and may be required to furnish a bid deposit or performance bond.

**Sec. 24.** RCW 47.38.060 and 1996 c 172 s 1 are each amended to read as follows:

The ~~((transportation commission))~~ department may designate interstate safety rest areas, as appropriate, as locations for memorial signs to prisoners of war and those missing in action. The ~~((commission))~~ department shall adopt policies for the placement of memorial signs on interstate safety rest areas and may disapprove any memorial sign that it determines to be inappropriate or inconsistent with the policies. The policies shall include, but are not limited to, guidelines for the size and location of and inscriptions on memorial signs. The secretary shall adopt rules for administering this program. Nonprofit associations may have their name identified on a memorial sign if the association bears the cost of supplying and maintaining the memorial sign.

**Sec. 25.** RCW 47.52.133 and 1987 c 200 s 2 are each amended to read as follows:

Except as provided in RCW 47.52.134, the ~~((transportation commission))~~ department and the highway authorities of the counties and incorporated cities and towns, with regard to facilities under their respective jurisdictions, prior to the establishment of any limited access facility, shall hold a public hearing within the county, city, or town wherein the limited access facility is to be established to determine the desirability of the plan proposed by such authority. Notice of such hearing shall be given to the owners of property abutting the section of any existing highway, road, or street being established as a limited access facility, as indicated in the tax rolls of the county, and in the case of a state limited access facility, to the county and/or city or town. Such notice shall be by United States mail in writing, setting forth a time for the hearing, which time



shall be not less than fifteen days after mailing of such notice. Notice of such hearing also shall be given by publication not less than fifteen days prior to such hearing in one or more newspapers of general circulation within the county, city, or town. Such notice by publication shall be deemed sufficient as to any owner or reputed owner or any unknown owner or owner who cannot be located. Such notice shall indicate a suitable location where plans for such proposal may be inspected.

**Sec. 26.** RCW 47.52.145 and 1981 c 95 s 2 are each amended to read as follows:

Whenever after the final adoption of a plan for a limited access highway by the (~~(transportation commission)~~) department, an additional design public hearing with respect to the facility or any portion thereof is conducted pursuant to federal law resulting in a revision of the design of the limited access plan, the (~~(commission)~~) department may modify the previously adopted limited access plan to conform to the revised design without further public hearings providing the following conditions are met:

(1) As compared with the previously adopted limited access plan, the revised plan will not require additional or different right of way with respect to that section of highway for which the design has been revised, in excess of five percent by area; and

(2) If the previously adopted limited access plan was modified by a board of review convened at the request of a county, city, or town, the legislative authority of the county, city, or town shall approve any revisions of the plan which conflict with modifications ordered by the board of review.

**Sec. 27.** RCW 47.52.210 and 1981 c 95 s 3 are each amended to read as follows:

(1) Whenever the (~~(transportation commission)~~) department adopts a plan for a limited access highway to be constructed within the corporate limits of a city or town which incorporates existing city or town streets, title to such streets shall remain in the city or town, and the provisions of RCW 47.24.020 as now or hereafter amended shall continue to apply to such streets until such time that the highway is operated as either a partially or fully controlled access highway. Title to and full control over that portion of the city or town street incorporated into the limited access highway shall be vested in the state upon a declaration by the secretary of transportation that such highway is operational as a limited access facility, but in no event prior to the acquisition of right of way for such highway including access rights, and not later than the final completion of construction of such highway.

(2) Upon the completion of construction of a state limited access highway within a city or town, the department of transportation may relinquish to the city or town streets constructed or improved as a functional part of the limited access highway, slope easements, landscaping areas, and other related improvements to be maintained and operated by the city or town in accordance with the limited access plan. Title to such property relinquished to a city or town shall be conveyed by a deed executed by the secretary of transportation and duly acknowledged. Relinquishment of such property to the city or town may be expressly conditioned upon the maintenance of access control acquired by the

state and the continued operation of such property as a functional part of the limited access highway.

**Sec. 28.** RCW 81.112.086 and 2003 c 363 s 306 are each amended to read as follows:

As a condition of receiving state funding, a regional transit authority shall submit a maintenance and preservation management plan for certification by the department of transportation (~~(commission or its successor entity)~~). The plan must inventory all transportation system assets within the direction and control of the transit authority, and provide a plan for preservation of assets based on lowest life-cycle cost methodologies.

**Sec. 29.** RCW 36.56.121 and 2003 c 363 s 303 are each amended to read as follows:

As a condition of receiving state funding, a county that has assumed the transportation functions of a metropolitan municipal corporation shall submit a maintenance and preservation management plan for certification by the (~~(transportation commission or its successor entity)~~) department of transportation. The plan must inventory all transportation system assets within the direction and control of the county, and provide a preservation plan based on lowest life-cycle cost methodologies.

**Sec. 30.** RCW 36.57A.070 and 1985 c 6 s 5 are each amended to read as follows:

The comprehensive transit plan adopted by the authority shall be reviewed by the state department of transportation (~~(commission)~~) to determine:

- (1) The completeness of service to be offered and the economic viability of the transit system proposed in such comprehensive transit plan;
- (2) Whether such plan integrates the proposed transportation system with existing transportation modes and systems that serve the benefit area;
- (3) Whether such plan coordinates that area's system and service with nearby public transportation systems;
- (4) Whether such plan is eligible for matching state or federal funds(~~(;~~

~~After reviewing the comprehensive transit plan, the state transportation commission shall have sixty days in which to approve such plan and to certify to the state treasurer that such public transportation benefit area shall be eligible to receive the motor vehicle excise tax proceeds authorized pursuant to RCW 35.58.273, as now or hereafter amended in the manner prescribed by chapter 82.44 RCW, as now or hereafter amended. To be approved a plan shall provide for coordinated transportation planning, the integration of such proposed transportation program with other transportation systems operating in areas adjacent to, or in the vicinity of the proposed public transportation benefit area, and be consistent with the public transportation coordination criteria adopted pursuant to the urban mass transportation act of 1964 as amended as of July 1, 1975. In the event such comprehensive plan is disapproved and ruled ineligible to receive motor vehicle tax proceeds, the state transportation commission shall provide written notice to the authority within thirty days as to the reasons for such plan's disapproval and such ineligibility. The authority may resubmit such plan upon reconsideration and correction of such deficiencies in the plan cited in such notice of disapproval).~~

**Sec. 31.** RCW 47.10.861 and 2003 c 147 s 1 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of selected projects or improvements that are identified as transportation 2003 projects or improvements in the omnibus transportation budget, there shall be issued and sold upon the request of the secretary of the department of transportation (~~(commission)~~) a total of two billion six hundred million dollars of general obligation bonds of the state of Washington.

**Sec. 32.** RCW 47.10.862 and 2003 c 147 s 2 are each amended to read as follows:

Upon the request of the secretary of the department of transportation (~~(commission)~~), as appropriate, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in RCW 47.10.861 through 47.10.866 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.861 through 47.10.866 shall be sold in the manner, at time or times, in amounts, and at the price as the state finance committee shall determine. No bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

**Sec. 33.** RCW 47.10.843 and 1998 c 321 s 16 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of state and local highway improvements, there shall be issued and sold upon the request of the (~~Washington state~~) secretary of the department of transportation (~~(commission)~~) a maximum of one billion nine hundred million dollars of general obligation bonds of the state of Washington.

**Sec. 34.** RCW 47.10.844 and 1998 c 321 s 17 are each amended to read as follows:

Upon the request of the secretary of the department of transportation (~~(commission)~~), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.843 through 47.10.848 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.843 through 47.10.848 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

**Sec. 35.** RCW 47.10.834 and 1995 2nd sp.s. c 15 s 2 are each amended to read as follows:

In order to provide funds necessary to implement the public-private transportation initiatives authorized by chapter 47.46 RCW, there shall be issued and sold upon the request of the ~~((Washington state))~~ secretary of the department of transportation ~~((commission))~~ a total of twenty-five million six hundred twenty-five thousand dollars of general obligation bonds of the state of Washington.

**Sec. 36.** RCW 47.10.835 and 1994 c 183 s 3 are each amended to read as follows:

Upon the request of the secretary of the department of transportation ~~((commission))~~, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.834 through 47.10.841 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.834 through 47.10.841 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. In making such appropriation of the net proceeds of the sale of the bonds, the legislature shall specify what portion of the appropriation is provided for possible loans and what portion of the appropriation is provided for other forms of cash contributions to projects.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

**Sec. 37.** RCW 47.10.819 and 1993 c 432 s 1 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of selected interstate and other highway improvements, there shall be issued and sold upon the request of the ~~((Washington state))~~ secretary of the department of transportation ~~((commission))~~ a total of one hundred million dollars of general obligation bonds of the state of Washington for the following purposes and specified sums:

(1) Not to exceed twenty-five million dollars to pay the state's and local governments' share of matching funds for the ten demonstration projects identified in the Intermodal Surface Transportation Efficiency Act of 1991.

(2) Not to exceed fifty million dollars to temporarily pay the regular federal share of construction in advance of federal-aid apportionments as authorized by this section.

(3) Not to exceed twenty-five million dollars for loans to local governments to provide the required matching funds to take advantage of available federal funds. These loans shall be on such terms and conditions as determined by the ~~((Washington state))~~ secretary of the department of transportation ~~((commission))~~, but in no event may the loans be for a period of more than ten years. The interest rate on the loans authorized under this subsection shall be equal to the interest rate on the bonds sold for such purposes.

**Sec. 38.** RCW 47.10.820 and 1993 c 432 s 2 are each amended to read as follows:

Upon the request of the secretary of the department of transportation (~~(commission)~~), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.819 through 47.10.824 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.819 through 47.10.824 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

**Sec. 39.** RCW 47.02.120 and 1990 c 293 s 1 are each amended to read as follows:

For the purpose of providing funds for the acquisition of headquarters facilities for district 1 of the department of transportation and costs incidental thereto, together with all improvements and equipment required to make the facilities suitable for the department's use, there shall be issued and sold upon the request of the (~~(Washington transportation commission)~~) secretary of the department of transportation a total of fifteen million dollars of general obligation bonds of the state of Washington.

**Sec. 40.** RCW 47.02.140 and 1990 c 293 s 3 are each amended to read as follows:

Upon the request of the secretary of the department of transportation (~~(commission)~~), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.02.120 through 47.02.190 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.02.120 through 47.02.190 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. Except for the purpose of repaying the loan from the motor vehicle fund, no such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

**Sec. 41.** RCW 47.17.132 and 1997 c 308 s 1 are each amended to read as follows:

A state highway to be known as state route number 35 is established as follows:

Beginning at the Washington-Oregon boundary line thence northerly to a junction with state route number 14 in the vicinity of White Salmon(~~(; however, until such time as a bridge across the Columbia River is constructed at a location adopted by the transportation commission no existing route may be maintained or improved by the transportation commission as a temporary route for state route number 35)~~)).

**Sec. 42.** RCW 47.24.010 and 1998 c 245 s 97 are each amended to read as follows:

The department of transportation (~~(commission)~~) shall determine what streets, together with bridges thereon and wharves necessary for use for ferrriage of motor vehicle traffic in connection with such streets, if any, in any incorporated cities and towns shall form a part of the route of state highways and between the first and fifteenth days of July of any year the department (~~(of transportation)~~) shall identify by brief description, the streets, together with the bridges thereon and wharves, if any, in such city or town which are designated as forming a part of the route of any state highway; and all such streets, including curbs and gutters and street intersections and such bridges and wharves, shall thereafter be a part of the state highway system and as such shall be constructed and maintained by the department (~~(of transportation)~~) from any state funds available therefor: PROVIDED, That the responsibility for the construction and maintenance of any such street together with its appurtenances may be returned to a city or a town upon certification by the department (~~(of transportation)~~) to the clerk of any city or town that such street, or portion thereof, is no longer required as a part of the state highway system: PROVIDED FURTHER, That any such certification that a street, or portion thereof, is no longer required as a part of the state highway system shall be made between the first and fifteenth of July following the determination by the department that such street or portion thereof is no longer required as a part of the state highway system, but this shall not prevent the department and any city or town from entering into an agreement that a city or town will accept responsibility for such a street or portion thereof at some time other than between the first and fifteenth of July of any year.

**Sec. 43.** RCW 43.88.030 and 2005 c 386 s 3 and 2005 c 319 s 108 are each reenacted and amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The biennial budget document or documents shall also describe performance indicators that demonstrate measurable progress towards priority results. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official

forecast. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

~~((Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.))~~

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, and agency;

(f) The expenditures that include nonbudgeted, nonappropriated accounts outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

- (e) Revenues derived from agency operations;
  - (f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;
  - (g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;
  - (h) Common school expenditures on a fiscal-year basis;
  - (i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and
  - (j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.
- (3) The governor's operating budget document or documents shall reflect the statewide priorities as required by RCW 43.88.090.
- (4) The governor's operating budget document or documents shall identify activities that are not addressing the statewide priorities.
- (5) A separate capital budget document or schedule shall be submitted that will contain the following:
- (a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;
  - (b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;
  - (c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;
  - (d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;
  - (e) A statement of the reason or purpose for a project;
  - (f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;
  - (g) A statement about the proposed site, size, and estimated life of the project, if applicable;
  - (h) Estimated total project cost;
  - (i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format



defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (5), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative evaluation and accountability program committee, and office of financial management.

(6) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

**NEW SECTION. Sec. 44.** A new section is added to chapter 47.01 RCW to read as follows:

(1) The transportation commission may review the performance and outcome measures of transportation-related agencies. The purpose of these reviews is to ensure that the legislature and the governor have the means to

adequately and accurately assess the performance and outcomes of those agencies and departments.

(2) The performance and outcome measures and benchmarks of each transportation-related agency or department may be reviewed at the discretion of the transportation commission, or at the request of the legislature or the governor. In setting the schedule and the extent of performance reviews, the commission shall consider the timing and results of other recent state, federal, and independent reviews and audits, the seriousness of past findings, any inadequate remedial action taken by an agency or department, whether an agency or department lacks performance and outcome measures, and the desirability to include a diverse range of agencies or programs each year. The commission shall avoid duplication of effort in conducting performance reviews by coordinating with the state auditor, joint legislative audit and review committee, the citizen advisory board, and the governor's performance review process.

(3) The reviews may include, but are not limited to:

(a) A determination of whether the performance and outcome measures are consistent with legislative mandates, strategic plans, mission statements, and goals and objectives, and whether the legislature has established clear mandates, strategic plans, mission statements, and goals and objectives that lend themselves to performance and outcome measurement;

(b) An examination of how agency management uses the measures to manage resources in an efficient and effective manner;

(c) An assessment of how performance benchmarks are established for the purpose of assessing overall performance compared to external standards and benchmarks;

(d) An examination of how an analysis of the measurement data is used to make planning and operational improvements;

(e) A determination of how performance and outcome measures are used in the budget planning, development, and allotment processes and the extent to which the agency is in compliance with its responsibilities under RCW 43.88.090;

(f) A review of how performance data are reported to and used by the legislature both in policy development and resource allocation;

(g) An assessment of whether the performance measure data are reliable and collected in a uniform and timely manner;

(h) A determination whether targeted funding investments and established priorities of government actually produce the intended and expected services and benefits; and

(i) Recommendations as necessary or appropriate.

(4) For the purposes of this section, "transportation-related agencies" means any state or local agency, board, special purpose district, or commission that receives or generates funding primarily for transportation-related purposes. At a minimum, the department of transportation, the Washington state patrol, the department of licensing, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies.

(5) The state auditor, legislative auditor, governor, and director of the office of financial management shall report to the transportation commission on an

annual basis concerning their performance improvement efforts to ensure coordination and avoid duplication of effort.

**Sec. 45.** RCW 47.05.030 and 2005 c 319 s 9 are each amended to read as follows:

The transportation commission shall ~~((adopt))~~ develop a comprehensive ten-year investment program specifying program objectives and performance measures for the preservation and improvement programs defined in this section. The adopted ten-year investment program must be forwarded as a recommendation to the governor and the legislature, and is subject to the approval of the legislature in the biennial transportation budget act. In the specification of investment program objectives and performance measures, the transportation commission, in consultation with the Washington state department of transportation, shall define and adopt standards for effective programming and prioritization practices including a needs analysis process. The analysis process must ensure the identification of problems and deficiencies, the evaluation of alternative solutions and trade-offs, and estimations of the costs and benefits of prospective projects. ~~((The investment program must be revised based on directions by the office of financial management.))~~ The investment program must be based upon the needs identified in the state-owned highway component of the statewide comprehensive transportation plan ~~((as defined in RCW 47.01.071(3))).~~

(1) The preservation program consists of those investments necessary to preserve the existing state highway system and to restore existing safety features, giving consideration to lowest life cycle costing. The preservation program must require use of the most cost-effective pavement surfaces, considering:

- (a) Life-cycle cost analysis;
- (b) Traffic volume;
- (c) Subgrade soil conditions;
- (d) Environmental and weather conditions;
- (e) Materials available; and
- (f) Construction factors.

The comprehensive ten-year investment program for preservation must identify projects for two years and an investment plan for the remaining eight years.

(2) The improvement program consists of investments needed to address identified deficiencies on the state highway system to increase mobility, address congestion, and improve safety, support for the economy, and protection of the environment. The ten-year investment program for improvements must identify projects for two years and major deficiencies proposed to be addressed in the ten-year period giving consideration to relative benefits and life cycle costing. The transportation commission shall give higher priority for correcting identified deficiencies on those facilities classified as facilities of statewide significance as defined in RCW 47.06.140. Project prioritization must be based primarily upon cost-benefit analysis, where appropriate.

~~((The transportation commission shall approve and present the comprehensive ten-year investment program to the governor and the legislature as directed by the office of financial management.))~~

**Sec. 46.** RCW 47.05.035 and 2005 c 319 s 10 are each amended to read as follows:

(1) The department shall use the transportation demand modeling tools developed under subsection (2) of this section to evaluate investments based on the best mode or improvement, or mix of modes and improvements, to meet current and future long-term demand within a corridor or system for the lowest cost. The end result of these demand modeling tools is to provide a cost-benefit analysis by which the department can determine the relative mobility improvement and congestion relief each mode or improvement under consideration will provide and the relative investment each mode or improvement under consideration will need to achieve that relief.

(2) The department will participate in the refinement, enhancement, and application of existing transportation demand modeling tools to be used to evaluate investments. This participation and use of transportation demand modeling tools will be phased in.

(3) In developing program objectives and performance measures, the department shall evaluate investment trade-offs between the preservation and improvement programs. In making these investment trade-offs, the department shall evaluate, using cost-benefit techniques, roadway and bridge maintenance activities as compared to roadway and bridge preservation program activities and adjust those programs accordingly.

(4) The department shall allocate the estimated revenue between preservation and improvement programs giving primary consideration to the following factors:

(a) The relative needs in each of the programs and the system performance levels that can be achieved by meeting these needs;

(b) The need to provide adequate funding for preservation to protect the state's investment in its existing highway system;

(c) The continuity of future transportation development with those improvements previously programmed; and

(d) The availability of dedicated funds for a specific type of work.

(5) The ~~((commission shall review the results of the department's findings and shall consider those))~~ department shall consider the findings in this section in the development of the ten-year investment program.

**Sec. 47.** RCW 47.05.051 and 2005 c 319 s 11 are each amended to read as follows:

~~((4))~~ The comprehensive ten-year investment program shall be based upon the needs identified in the state-owned highway component of the statewide ~~((multimodal))~~ comprehensive transportation plan ~~((as defined in RCW 47.01.071(4))~~) and priority selection systems that incorporate the following criteria:

~~((a))~~ (1) Priority programming for the preservation program shall take into account the following, not necessarily in order of importance:

~~((i))~~ (a) Extending the service life of the existing highway system, including using the most cost-effective pavement surfaces, considering:

~~((A))~~ (i) Life-cycle cost analysis;

~~((B))~~ (ii) Traffic volume;

~~((C))~~ (iii) Subgrade soil conditions;

~~((D))~~ (iv) Environmental and weather conditions;

- ~~((E))~~ (v) Materials available; and
- ~~((F))~~ (vi) Construction factors;
- ~~((ii))~~ (b) Ensuring the structural ability to carry loads imposed upon highways and bridges; and
- ~~((iii))~~ (c) Minimizing life-cycle costs. ~~((The transportation commission in carrying out the provisions of this section may delegate to the department of transportation the authority to select preservation projects to be included in the ten-year program.~~
- ~~((b))~~ (2) Priority programming for the improvement program must be based primarily upon the following, not necessarily in order of importance:
  - ~~((i))~~ (a) Traffic congestion, delay, and accidents;
  - ~~((ii))~~ (b) Location within a heavily traveled transportation corridor;
  - ~~((iii))~~ (c) Except for projects in cities having a population of less than five thousand persons, synchronization with other potential transportation projects, including transit and multimodal projects, within the heavily traveled corridor; and
  - ~~((iv))~~ (d) Use of benefit/cost analysis wherever feasible to determine the value of the proposed project.
- ~~((e))~~ (3) Priority programming for the improvement program may also take into account:
  - ~~((i))~~ (a) Support for the state's economy, including job creation and job preservation;
  - ~~((ii))~~ (b) The cost-effective movement of people and goods;
  - ~~((iii))~~ (c) Accident and accident risk reduction;
  - ~~((iv))~~ (d) Protection of the state's natural environment;
  - ~~((v))~~ (e) Continuity and systematic development of the highway transportation network;
  - ~~((vi))~~ (f) Consistency with local comprehensive plans developed under chapter 36.70A RCW including the following if they have been included in the comprehensive plan:
    - ~~((A))~~ (i) Support for development in and revitalization of existing downtowns;
    - ~~((B))~~ (ii) Extent that development implements local comprehensive plans for rural and urban residential and nonresidential densities;
    - ~~((C))~~ (iii) Extent of compact, transit-oriented development for rural and urban residential and nonresidential densities;
    - ~~((D))~~ (iv) Opportunities for multimodal transportation; and
    - ~~((E))~~ (v) Extent to which the project accommodates planned growth and economic development;
    - ~~((vi))~~ (g) Consistency with regional transportation plans developed under chapter 47.80 RCW;
    - ~~((viii))~~ (h) Public views concerning proposed improvements;
    - ~~((ix))~~ (i) The conservation of energy resources;
    - ~~((x))~~ (j) Feasibility of financing the full proposed improvement;
    - ~~((xi))~~ (k) Commitments established in previous legislative sessions;
    - ~~((xii))~~ (l) Relative costs and benefits of candidate programs.
- ~~((d))~~ Major projects addressing capacity deficiencies which prioritize allowing for preliminary engineering shall be reprioritized during the succeeding biennium, based upon updated project data. Reprioritized projects may be

~~delayed or canceled by the transportation commission if higher priority projects are awaiting funding.~~

~~(e) Major project approvals which significantly increase a project's scope or cost from original prioritization estimates shall include a review of the project's estimated revised priority rank and the level of funding provided. Projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.~~

~~(2) The commission may depart from the priority programming established under subsection (1) of this section: (a) To the extent that otherwise funds cannot be utilized feasibly within the program; (b) as may be required by a court judgment, legally binding agreement, or state and federal laws and regulations; (c) as may be required to coordinate with federal, local, or other state agency construction projects; (d) to take advantage of some substantial financial benefit that may be available; (e) for continuity of route development; or (f) because of changed financial or physical conditions of an unforeseen or emergent nature. The commission or secretary of transportation shall maintain in its files information sufficient to show the extent to which the commission has departed from the established priority.~~

~~(3) The commission shall identify those projects that yield freight mobility benefits or that alleviate the impacts of freight mobility upon affected communities.)~~

**Sec. 48.** RCW 47.29.010 and 2005 c 317 s 1 are each amended to read as follows:

(1) The legislature finds that the public-private ~~((transportation))~~ transportation initiatives act created under chapter 47.46 RCW has not met the needs and expectations of the public or private sectors for the development of transportation projects. The legislature intends to phase out chapter 47.46 RCW coincident with the completion of the Tacoma Narrows Bridge - SR 16 public-private partnership. From July 24, 2005, this chapter will provide a more desirable and effective approach to developing transportation projects in partnership with the private sector by applying lessons learned from other states and from this state's ten-year experience with chapter 47.46 RCW.

(2) It is the legislature's intent to achieve the following goals through the creation of this new approach to public-private partnerships:

(a) To provide a well-defined mechanism to facilitate the collaboration between public and private entities in transportation;

(b) To bring innovative thinking from the private sector and other states to bear on public projects within the state;

(c) To provide greater flexibility in achieving the transportation projects; and

(d) To allow for creative cost and risk sharing between the public and private partners.

(3) The legislature intends that the powers granted in this chapter to the commission or department are in addition to any powers granted under chapter 47.56 RCW.

(4) It is further the intent of the legislature that ~~((the commission shall be responsible for receiving, reviewing, and approving proposals with technical support of the department; rule making; and for oversight of contract execution. The department shall be responsible for evaluating proposals and negotiating~~

contracts)) an expert review panel be established for each project developed under this act. Expert review panels shall be responsible for reviewing selected proposals, analyzing and reviewing tentative agreements, and making recommendations to the governor and the transportation commission on the advisability of executing agreements under this act.

**NEW SECTION. Sec. 49.** A new section is added to chapter 47.29 RCW to read as follows:

(1) The department shall establish an expert review panel to review, analyze, and make recommendations to the governor and the transportation commission on whether to approve, reject, or continue negotiations on a proposed project agreement under this chapter. The department shall provide staff to support the expert review panel, if requested by the panel. The expert review panel may utilize any of the consultants under contract for the department, and the expert review panel may contract for consulting expertise in specific areas as it deems necessary to ensure a thorough and critical review of any proposed project agreement.

(2) The governor shall appoint members of an expert review panel that have experience in large capital project delivery, public-private partnerships, public financing of infrastructure improvements, or other areas of expertise that will benefit the panel. The panel shall consist of no less than three, but no more than five members, as determined by the governor.

**NEW SECTION. Sec. 50.** A new section is added to chapter 47.29 RCW to read as follows:

Upon receiving the recommendations of the expert review panel as provided in section 49 of this act, and upon consultation with the governor, the transportation commission shall either execute the proposed project agreement, reject the proposed project agreement, or continue further negotiations between the state and a private partner. The execution of any agreement or the rejection of any agreement shall constitute a final action for legal or administrative purposes.

**NEW SECTION. Sec. 51.** The following acts or parts of acts are each repealed:

- (1) RCW 44.75.010 (Intent) and 2003 c 362 s 1;
- (2) RCW 44.75.020 (Definitions) and 2005 c 319 s 16 & 2003 c 362 s 2;
- (3) RCW 44.75.030 (Board created—Membership) and 2005 c 319 s 17 & 2003 c 362 s 3;
- (4) RCW 44.75.040 (Procedures, compensation, support) and 2005 c 319 s 18 & 2003 c 362 s 4;
- (5) RCW 44.75.050 (Reviews of transportation-related agencies) and 2005 c 319 s 19 & 2003 c 362 s 5;
- (6) RCW 44.75.060 (Review methodology) and 2003 c 362 s 6;
- (7) RCW 44.75.070 (Scope of reviews) and 2003 c 362 s 7;
- (8) RCW 44.75.080 (Direction of audit) and 2005 c 319 s 20 & 2003 c 362 s 8;
- (9) RCW 44.75.090 (Professional experts) and 2005 c 319 s 21 & 2003 c 362 s 9;
- (10) RCW 44.75.100 (Audit reports) and 2005 c 319 s 22 & 2003 c 362 s 10;

- (11) RCW 44.75.110 (Scope of audit) and 2005 c 319 s 23 & 2003 c 362 s 11;
- (12) RCW 44.75.120 (Contents of report) and 2005 c 319 s 24 & 2003 c 362 s 12;
- (13) RCW 44.75.800 (Department of transportation audit) and 2003 c 362 s 15;
- (14) RCW 44.75.900 (Captions—2003 c 362) and 2003 c 362 s 18; and
- (15) RCW 44.75.901 (Effective date—2003 c 362) and 2003 c 362 s 19.

NEW SECTION. Sec. 52. This act takes effect July 1, 2006.

Passed by the Senate March 8, 2006.

Passed by the House March 8, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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**CHAPTER 335**

[Senate Bill 6816]

CEMETERY DISTRICTS

AN ACT Relating to cemetery districts; and amending RCW 68.52.210.

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

**Sec. 1.** RCW 68.52.210 and 1994 c 81 s 82 are each amended to read as follows:

(1) A cemetery district organized under this chapter shall have power to acquire, establish, maintain, manage, improve and operate cemeteries and conduct any and all of the businesses of a cemetery as defined in this title. A cemetery district shall constitute a cemetery authority as defined in this title and shall have and exercise all powers conferred thereby upon a cemetery authority and be subject to the provisions thereof.

(2) A cemetery district may include within its boundaries the lands embraced within the corporate limits of any incorporated city or town (~~with a population of less than ten thousand~~) and in any such cases the district may acquire any cemetery or cemeteries theretofore maintained and operated by any such city or town and proceed to maintain, manage, improve and operate the same under the provisions hereof. In such event the governing body of the city or town, after the transfer takes place, shall levy no cemetery tax. The power of eminent domain heretofore conferred shall not extend to the condemnation of existing cemeteries within the district: **PROVIDED**, That no cemetery district shall operate a cemetery within the corporate limits of any city or town where there is a private cemetery operated for profit.

Passed by the Senate February 8, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.



## CHAPTER 336

[Senate Bill 6826]

## PUBLIC UTILITY TAX DEDUCTION—TRANSIT SERVICES

AN ACT Relating to public utility taxes imposed on fees and charges for public transit services; and amending RCW 82.16.050.

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

**Sec. 1.** RCW 82.16.050 and 2004 c 153 s 308 are each amended to read as follows:

In computing tax there may be deducted from the gross income the following items:

(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof: PROVIDED, That this section shall not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, gas distribution or other public service businesses which furnish water, gas or any other commodity in the performance of public service businesses;

(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross income reported for tax by the former;

(4) The amount of cash discount actually taken by the purchaser or customer;

(5) The amount of bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, on which tax was previously paid under this chapter;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes;

(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or ship side on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations: PROVIDED, That no deduction will be allowed when the point of origin and the point of delivery to such an export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;

(9) Amounts derived from the production, sale, or transfer of electrical energy for resale within or outside the state or for consumption outside the state;

(10) Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements by that nonprofit water association;

(11) Amounts paid by a sewerage collection business taxable under RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the treatment or disposal of sewage;

(12) Amounts derived from fees or charges imposed on persons for transit services provided by a public transportation agency. For the purposes of this subsection, "public transportation agency" means a municipality, as defined in RCW 35.58.272, and urban public transportation systems, as defined in RCW 47.04.082. Public transportation agencies shall spend an amount equal to the reduction in tax provided by this tax deduction solely to adjust routes to improve access for citizens using food banks and senior citizen services or to extend or add new routes to assist low-income citizens and seniors.

Passed by the Senate March 7, 2006.

Passed by the House March 3, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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## CHAPTER 337

[Engrossed Substitute Senate Bill 6839]

### TRANSPORTATION ACCOUNTS AND REVENUE DISTRIBUTIONS

AN ACT Relating to transportation accounts and revenue distributions; amending RCW 46.68.035, 46.16.086, 46.16.162, 46.68.135, 46.68.290, 46.17.010, and 46.68.080; reenacting and amending RCW 43.84.092 and 43.84.092; adding new sections to chapter 46.68 RCW; creating a new section; providing effective dates; providing an expiration date; and declaring an emergency.

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

**Sec. 1.** RCW 46.68.035 and 2005 c 314 s 205 are each amended to read as follows:

All proceeds from combined vehicle licensing fees received by the director for vehicles licensed under RCW 46.16.070 and 46.16.085(~~the license fee under RCW 46.16.086, and the farm vehicle trip permit under RCW 46.16.162~~) shall be forwarded to the state treasurer to be distributed into accounts according to the following method:

(1) The sum of two dollars for each vehicle shall be deposited into the multimodal transportation account, except that for each vehicle registered by a county auditor or agent to a county auditor pursuant to RCW 46.01.140, the sum of two dollars shall be credited to the current county expense fund.

(2) The remainder and the proceeds from the license fee under RCW 46.16.086 and the farm vehicle trip permit under RCW 46.16.162 shall be distributed as follows:

(a) (~~24.00~~) 22.36 percent shall be deposited into the state patrol highway account of the motor vehicle fund;

(b) (~~1.8~~) 1.375 percent shall be deposited into the Puget Sound ferry operations account of the motor vehicle fund;

(c) ~~((6.38))~~ 5.237 percent shall be deposited into the transportation 2003 account (nickel account); ~~((and))~~

(d) ~~((On July 1, 2006, six million dollars shall be deposited into the freight mobility investment account created in RCW 46.68.300 and beginning on July 1, 2007, and every July 1st thereafter, three million dollars shall be deposited into the freight mobility investment account created in RCW 46.68.300;))~~ 11.533 percent shall be deposited into the transportation partnership account created in RCW 46.68.290; and

(e) The remaining proceeds shall be deposited into the motor vehicle fund.

**Sec. 2.** RCW 46.16.086 and 2005 c 314 s 203 are each amended to read as follows:

In lieu of the license tab fees provided in RCW 46.16.0621, private use single-axle trailers of two thousand pounds scale weight or less may be licensed upon the payment of a license fee in the sum of fifteen dollars, but only if the trailer is operated upon public highways. The license fee must be collected annually for each registration year or fraction of a registration year. This reduced license fee applies only to trailers operated for personal use of the owners, and not trailers held for rental to the public or used in any commercial or business endeavor. The proceeds from the fees collected under this section shall be distributed in accordance with RCW 46.68.035(2).

**Sec. 3.** RCW 46.16.162 and 2005 c 314 s 206 are each amended to read as follows:

(1) The owner of a farm vehicle licensed under RCW 46.16.090 purchasing a monthly license under RCW 46.16.135 may, as an alternative to the first partial month of the license registration, secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles.

(2) If a monthly license previously issued has expired, the owner of a farm vehicle may, as an alternative to purchasing a full monthly license, secure and operate the vehicle under authority of a farm vehicle trip permit issued by this state. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles.

(3) Each farm vehicle trip permit shall authorize the operation of a single vehicle at the maximum legal weight limit for the vehicle for the period remaining in the first month of monthly license, commencing with the day of first use. No more than four such permits may be used for any one vehicle in any twelve-month period. Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety and signed by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The farm vehicle trip permit shall be displayed on the vehicle to which it is issued as prescribed by the department.

(4) Vehicles operating under authority of farm vehicle trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.

(5) Farm vehicle trip permits may be obtained from the department of licensing or agents and subagents appointed by the department. The fee for each farm vehicle trip permit is six dollars and twenty-five cents. Farm vehicle trip permits sold by the department's agents or subagents are subject to fees specified in RCW 46.01.140 (4)(a), (5)(b), or (6).

(6) The proceeds from farm vehicle trip permits received by the director shall be forwarded to the state treasurer to be distributed as provided in RCW 46.68.035(2).

(7) No exchange, credits, or refunds may be given for farm vehicle trip permits after they have been purchased.

(8) The department of licensing may adopt rules as it deems necessary to administer this section.

**Sec. 4.** RCW 46.68.135 and 2005 c 314 s 111 are each amended to read as follows:

~~((Beginning))~~ By July 1, ~~((2007))~~ 2006, and each year thereafter, the state treasurer shall transfer ~~((five))~~ two and one-half million dollars from the multimodal account to the transportation infrastructure account created under RCW 82.44.190. The funds must be distributed for rail capital improvements only.

**Sec. 5.** RCW 46.68.290 and 2005 c 314 s 104 are each amended to read as follows:

(1) The transportation partnership account is hereby created in the state treasury. All distributions to the account from RCW 46.68.090 must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account must be used only for projects or improvements identified as 2005 transportation partnership projects or improvements in the omnibus transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements.

~~(2) ((If a regional transportation plan has not been adopted by January 2007, the legislature intends to reprioritize allocation of funding for the projects identified on the 2005 transportation partnership project list so that complete and functioning transportation projects can be constructed in a reasonable time.~~

~~(3) By January 1, 2006, the transportation performance audit board must develop performance measures and benchmarks for the evaluation of the expenditures of the transportation partnership account. The board must also develop an audit plan and schedule for audits of the performance of the department of transportation's delivery of the plan as defined by project list, schedule, and budget enacted by the legislature.~~

~~(4))~~ The legislature finds that:

(a) Citizens demand and deserve accountability of transportation-related programs and expenditures. Transportation-related programs must continuously improve in quality, efficiency, and effectiveness in order to increase public trust;

(b) Transportation-related agencies that receive tax dollars must continuously improve the way they operate and deliver services so citizens receive maximum value for their tax dollars; and

(c) Fair, independent, comprehensive performance audits of transportation-related agencies overseen by the elected state auditor are essential to improving the efficiency, economy, and effectiveness of the state's transportation system.

~~((5))~~ (3) For purposes of chapter 314, Laws of 2005:

(a) "Performance audit" means an objective and systematic assessment of a state agency or agencies or any of their programs, functions, or activities by the state auditor or designee in order to help improve agency efficiency, effectiveness, and accountability. Performance audits include economy and efficiency audits and program audits.

(b) "Transportation-related agency" means any state agency, board, or commission that receives funding primarily for transportation-related purposes. At a minimum, the department of transportation, the transportation improvement board or its successor entity, the county road administration board or its successor entity, and the traffic safety commission are considered transportation-related agencies. The Washington state patrol and the department of licensing shall not be considered transportation-related agencies under chapter 314, Laws of 2005.

~~((6))~~ (4) Within the authorities and duties under chapter 43.09 RCW, the state auditor shall establish criteria and protocols for performance audits. Transportation-related agencies shall be audited using criteria that include generally accepted government auditing standards as well as legislative mandates and performance objectives established by state agencies. Mandates include, but are not limited to, agency strategies, timelines, program objectives, and mission and goals as required in RCW 43.88.090.

~~((7))~~ (5) Within the authorities and duties under chapter 43.09 RCW, the state auditor may conduct performance audits for transportation-related agencies. The state auditor shall contract with private firms to conduct the performance audits.

~~((8))~~ (6) The audits may include:

(a) Identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;

(b) Identification of funding sources to the transportation-related agency, to programs, and to services that can be eliminated, reduced, consolidated, or enhanced;

(c) Analysis of gaps and overlaps in programs and services and recommendations for improving, dropping, blending, or separating functions to correct gaps or overlaps;

(d) Analysis and recommendations for pooling information technology systems used within the transportation-related agency, and evaluation of information processing and telecommunications policy, organization, and management;

(e) Analysis of the roles and functions of the transportation-related agency, its programs, and its services and their compliance with statutory authority and recommendations for eliminating or changing those roles and functions and ensuring compliance with statutory authority;

(f) Recommendations for eliminating or changing statutes, rules, and policy directives as may be necessary to ensure that the transportation-related agency carry out reasonably and properly those functions vested in the agency by statute;

(g) Verification of the reliability and validity of transportation-related agency performance data, self-assessments, and performance measurement systems as required under RCW 43.88.090;

(h) Identification of potential cost savings in the transportation-related agency, its programs, and its services;

(i) Identification and recognition of best practices;

(j) Evaluation of planning, budgeting, and program evaluation policies and practices;

(k) Evaluation of personnel systems operation and management;

(l) Evaluation of purchasing operations and management policies and practices;

(m) Evaluation of organizational structure and staffing levels, particularly in terms of the ratio of managers and supervisors to nonmanagement personnel; and

(n) Evaluation of transportation-related project costs, including but not limited to environmental mitigation, competitive bidding practices, permitting processes, and capital project management.

~~((9))~~ (7) Within the authorities and duties under chapter 43.09 RCW, the state auditor must provide the preliminary performance audit reports to the audited state agency for comment. The auditor also may seek input on the preliminary report from other appropriate officials. Comments must be received within thirty days after receipt of the preliminary performance audit report unless a different time period is approved by the state auditor. The final performance audit report shall include the objectives, scope, and methodology; the audit results, including findings and recommendations; the agency's response and conclusions; and identification of best practices.

~~((10))~~ (8) The state auditor shall provide final performance audit reports to the citizens of Washington, the governor, the joint legislative audit and review committee, ~~((the transportation performance audit board,))~~ the appropriate legislative committees, and other appropriate officials. Final performance audit reports shall be posted on the internet.

~~((11))~~ (9) The audited transportation-related agency is responsible for follow-up and corrective action on all performance audit findings and recommendations. The audited agency's plan for addressing each audit finding and recommendation shall be included in the final audit report. The plan shall provide the name of the contact person responsible for each action, the action planned, and the anticipated completion date. If the audited agency does not agree with the audit findings and recommendations or believes action is not required, then the action plan shall include an explanation and specific reasons.

The office of financial management shall require periodic progress reports from the audited agency until all resolution has occurred. The office of financial management is responsible for achieving audit resolution. The office of financial management shall annually report by December 31st the status of performance audit resolution to the appropriate legislative committees and the state auditor. The legislature shall consider the performance audit results in connection with the state budget process.

The auditor may request status reports on specific audits or findings.

~~((12))~~ (10) For the period from July 1, 2005, until June 30, 2007, the amount of \$4,000,000 is appropriated from the transportation partnership account to the state auditors office for the purposes of subsections ~~((4))~~ (2) through ~~((11))~~ (9) of this section.

~~((13) When appointing the citizen members with performance measurement expertise to the transportation performance audit board, the governor shall appoint the state auditor, or his or her designee.~~

~~(14) If the state auditor's financial audit of a transportation related agency implies that a performance audit is warranted, the transportation performance audit board shall include in its annual work plan the performance audit recommended by the state auditor.))~~

**NEW SECTION. Sec. 6.** A new section is added to chapter 46.68 RCW to read as follows:

(1) On July 1, 2006, and by each July 1st thereafter, the state treasurer shall transfer from the transportation partnership account created in RCW 46.68.290:

(a) One million dollars to the small city pavement and sidewalk account created in RCW 47.26.340;

(b) Two and one-half million dollars to the transportation improvement account created in RCW 47.26.084; and

(c) One and one-half million dollars to the county arterial preservation account created in RCW 46.68.090(2)(i).

(2) On July 1, 2006, the state treasurer shall transfer six million dollars from the transportation partnership account created in RCW 46.68.290 into the freight mobility investment account created in RCW 46.68.300 and by July 1, 2007, and by every July 1st thereafter, three million dollars shall be deposited into the freight mobility investment account.

**NEW SECTION. Sec. 7.** A new section is added to chapter 46.68 RCW to read as follows:

The freight mobility multimodal account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for freight mobility projects identified in the omnibus transportation appropriations act, including any principal and interest on bonds authorized for the projects or improvements.

**NEW SECTION. Sec. 8.** A new section is added to chapter 46.68 RCW to read as follows:

(1) The regional mobility grant program account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the grants provided under RCW 47.66.030.

(2) Beginning with September 2007, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the regional mobility grant program account five million dollars.

(3) Beginning with September 2015, by the last day of September, December, March, and June of each year, the state treasurer shall transfer from the multimodal transportation account to the regional mobility grant program account six million two hundred fifty thousand dollars.

**Sec. 9.** RCW 46.17.010 and 2005 c 314 s 201 are each amended to read as follows:

(1) There shall be paid and collected annually for motor vehicles subject to the fee under RCW 46.16.0621, except motor homes, a vehicle weight fee. The amount of the fee shall be based upon the vehicle scale weight, which is

correlated with vehicle size and roadway lane usage. Fees imposed under this section must be used for transportation purposes, and shall not be used for the general support of state government. The vehicle weight fee shall be that portion of the fee as reflected on the scale weight set forth in schedule B provided in RCW 46.16.070 that is in excess of the fee imposed under RCW 46.16.0621. This fee is due at the time of initial and renewal of vehicle registration.

(2) If the resultant weight according to this section is not listed in schedule B provided in RCW 46.16.070, it shall be increased to the next higher weight pursuant to chapter 46.44 RCW.

(3) For the purpose of administering this section, the department shall rely on the vehicle empty scale weights as provided by vehicle manufacturers, or other sources defined by the department, to determine the weight of each vehicle. The department shall adopt rules for determining weight for vehicles without manufacturer empty scale weights.

(4) The vehicle weight fee under this section is imposed to provide funds to mitigate the impact of vehicle loads on the state roads and highways and is separate and distinct from other vehicle license fees. Proceeds from the fee may be used for transportation purposes, or for facilities and activities that reduce the number of vehicles or load weights on the state roads and highways.

(5) The vehicle weight fee collected under this section shall be deposited as follows:

(a) On July 1, 2006, six million dollars shall be deposited into the freight mobility ~~((investment))~~ multimodal account created in ~~((RCW 46.68.300))~~ section 7 of this act, and the remainder collected from ~~((January 1, 2006))~~ the effective date of this section, through June 30, 2006, shall be deposited into the multimodal transportation account;

(b) Beginning July 1, 2007, and every July 1st thereafter, three million dollars shall be deposited into the freight mobility ~~((investment))~~ multimodal account created in ~~((RCW 46.68.300))~~ section 7 of this act, and the remainder shall be deposited into the multimodal transportation account.

**Sec. 10.** RCW 43.84.092 and 2005 c 514 s 1105, 2005 c 353 s 3, 2005 c 339 s 22, 2005 c 314 s 109, 2005 c 312 s 7, and 2005 c 94 s 1 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.



(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment account, the freight mobility multimodal account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional mobility grant program account, the regional transportation investment district account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board

commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 11.** RCW 43.84.092 and 2005 c 514 s 1106, 2005 c 353 s 4, 2005 c 339 s 23, 2005 c 314 s 110, 2005 c 312 s 8, and 2005 c 94 s 2 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment account, the freight mobility multimodal account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal

justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional mobility grant program account, the regional transportation investment district account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway

account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 12.** RCW 46.68.080 and 1961 c 12 s 46.68.080 are each amended to read as follows:

~~((AH)) (1) Motor vehicle license fees ((and all motor vehicle)) collected under RCW 46.16.0621 and 46.16.070 and fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and~~ directly or indirectly paid by the residents of those counties composed entirely of islands and which have neither a fixed physical connection with the mainland nor any state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such ~~((motor))~~ vehicle fuel tax, be paid to the county treasurer of each such county to be by him disbursed as hereinafter provided.

(2) One-half of ~~((AH)) the~~ motor vehicle license fees ~~((and motor vehicle))~~ collected under RCW 46.16.0621 and 46.16.070 and one-half of the fuel taxes collected under RCW 82.36.025(1) and 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have either a fixed physical connection with the mainland or state highways on any of the islands of which they are composed, shall be paid into the motor vehicle fund of the state of Washington and shall monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such motor vehicle fuel tax, be paid to the county treasurer of each such county to be by him disbursed as hereinafter provided.

(3) All funds paid to the county treasurer of the counties of either class ~~((above))~~ referred to ~~((as in this section provided))~~ in subsections (1) and (2) of this section, shall be by such county treasurer distributed and credited to the several road districts of each such county and paid to the city treasurer of each incorporated city and town within each such county, in the direct proportion that the assessed valuation of each such road district and incorporated city and town shall bear to the total assessed valuation of each such county.

(4) The amount of motor vehicle fuel tax paid by the residents of those counties composed entirely of islands shall, for the purposes of this section, be that percentage of the total amount of motor vehicle fuel tax collected in the state that the motor vehicle license fees paid by the residents of counties composed entirely of islands bears to the total motor vehicle license fees paid by the residents of the state.

(5)(a) An amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of motor vehicle license fees collected under RCW 46.16.0621 and 46.16.070 from counties described in subsection (1) of this section divided by

the total amount of motor vehicle license fees collected in the state under RCW 46.16.0621 and 46.16.070.

(b) An additional amount of fuel taxes shall be deposited into the Puget Sound ferry operations account. This amount shall equal the difference between the total amount of fuel taxes collected in the state under RCW 82.36.020 and 82.38.030 less the total amount of fuel taxes collected in the state under RCW 82.36.020(1) and 82.38.030(1) and be multiplied by a fraction. The fraction shall equal the amount of motor vehicle license fees collected under RCW 46.16.0621 and 46.16.070 from counties described in subsection (2) of this section divided by the total amount of motor vehicle license fees collected in the state under RCW 46.16.0621 and 46.16.070, and this shall be multiplied by one-half.

NEW SECTION. Sec. 13. Section 10 of this act expires July 1, 2006.

NEW SECTION. Sec. 14. Section 11 of this act takes effect July 1, 2006.

NEW SECTION. Sec. 15. Section 1 of this act applies to license fees due on or after July 1, 2006.

NEW SECTION. Sec. 16. Section 7 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect March 24, 2006.

Passed by the Senate March 8, 2006.

Passed by the House March 8, 2006.

Approved by the Governor March 29, 2006.

Filed in Office of Secretary of State March 29, 2006.

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### CHAPTER 338

[Engrossed Substitute Senate Bill 6508]

#### FUEL QUALITY STANDARDS

AN ACT Relating to developing minimum renewable fuel content requirements and fuel quality standards; amending RCW 42.56.270, 19.112.060, 19.112.020, 43.19.642, and 19.112.010; adding new sections to chapter 19.112 RCW; adding a new section to chapter 43.19 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that it is in the public interest to establish a market for alternative fuels in Washington. By requiring a growing percentage of our fuel supply to be renewable biofuel that meets appropriate fuel quality standards, we will reduce our dependence on imports of foreign oil, improve the health and quality of life for Washingtonians, and stimulate the creation of a new industry in Washington that benefits our farmers and rural communities. The legislature finds that it is in the public interest for the state to play a central role in spurring the market by purchasing an increasing amount of alternative fuels produced in Washington. The legislature finds that we must act now and that the time available before the requirements of this act take effect is sufficient for feedstock and fuel providers to prepare for successful implementation.

The legislature intends for consumers to have a choice of fuels and to encourage and promote the development, availability, and use of a diversity of

renewable fuels and fuel blends ranging from fuels composed of no renewable content to completely renewable fuels.

**NEW SECTION. Sec. 2.** A new section is added to chapter 19.112 RCW to read as follows:

(1) Special fuel licensees under chapter 82.38 RCW, other than international fuel tax agreement licensees, dyed special fuel users, and special fuel distributors, shall provide evidence to the department of licensing that at least two percent of the total annual diesel fuel sold in Washington is biodiesel fuel, following the earlier of: (a) November 30, 2008; or (b) when a determination is made by the director, published in the Washington State Register, that feedstock grown in Washington state can satisfy a two-percent requirement.

(2) Special fuel licensees under chapter 82.38 RCW, other than international fuel tax agreement licensees, dyed special fuel users, and special fuel distributors, shall provide evidence to the department of licensing that at least five percent of total annual diesel fuel sold in Washington is biodiesel fuel, when the director determines, and publishes this determination in the Washington State Register, that both in-state oil seed crushing capacity and feedstock grown in Washington state can satisfy a three-percent requirement.

(3) The requirements of subsections (1) and (2) of this section shall take effect no sooner than one hundred eighty days after the determination has been published in the Washington State Register.

(4) The director and the director of licensing shall each adopt rules, in coordination with each other, for enforcing and carrying out the purposes of this section.

**NEW SECTION. Sec. 3.** A new section is added to chapter 19.112 RCW to read as follows:

(1) By December 1, 2008, motor vehicle fuel licensees under chapter 82.36 RCW, other than motor vehicle fuel distributors, shall provide evidence to the department of licensing that at least two percent of total gasoline sold in Washington, measured on a quarterly basis, is denatured ethanol.

(2) If the director of ecology determines that ethanol content greater than two percent of the total gasoline sold in Washington will not jeopardize continued attainment of the federal clean air act's national ambient air quality standard for ozone pollution in Washington and the director of agriculture determines and publishes this determination in the Washington State Register that sufficient raw materials are available within Washington to support economical production of ethanol at higher levels, the director of agriculture may require by rule that licensees provide evidence to the department of licensing that denatured ethanol comprises between two percent and at least ten percent of total gasoline sold in Washington, measured on a quarterly basis.

(3) The requirements of subsections (1) and (2) of this section shall take effect no sooner than one hundred eighty days after the determination has been published in the Washington State Register.

(4) The director and the director of licensing shall each adopt rules, in coordination with each other, for enforcing and carrying out the purposes of this section.

(5) Nothing in this section is intended to prohibit the production, sale, or use of motor fuel for use in federally designated flexibly fueled vehicles capable of

using up to eighty-five percent ethanol fuel blends. Nothing in this section is intended to limit the use of high octane gasoline not blended with ethanol for use in aircraft.

NEW SECTION. **Sec. 4.** A new section is added to chapter 19.112 RCW to read as follows:

The department of licensing shall not publicly release, unless pursuant to an order of a court of competent jurisdiction, information submitted as evidence as required by section 2 or 3 of this act, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees.

**Sec. 5.** RCW 42.56.270 and 2005 c 274 s 407 are each 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 43.163, 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) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity



related to an application for a liquor license, gambling license, or lottery retail license;

(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; ~~((and))~~

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development 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 community, trade, and economic development 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 community, trade, and economic development 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; and

(13) Financial and commercial information provided as evidence to the department of licensing as required by section 2 or 3 of this act, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees.

**Sec. 6.** RCW 19.112.060 and 1990 c 102 s 7 are each amended to read as follows:

(1)(a) Any person who knowingly violates any provision of this chapter or rules adopted under it is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both.

(b) The director shall assess a civil penalty ranging from one hundred dollars to ten thousand dollars per occurrence, giving due consideration to the appropriateness of the penalty with respect to the gravity of the violation, and the history of previous violations. Civil penalties collected under this chapter shall be deposited into the motor vehicle fund.

(2) The penalties in subsection (1)(a) of this section do not apply to violations of sections 2 and 3 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 19.112 RCW to read as follows:

(1) The director shall adopt rules for maintaining standards for biodiesel fuel or fuel blended with biodiesel fuel by adopting all or part of the standards set forth in the Annual Book of ASTM Standards and supplements, amendments, or revisions thereof, all or part of the standards set forth in the National Institute of Standards and Technology (NIST) Handbook 130, Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality rules, and any supplements, amendments, or revisions thereof, together with applicable federal environmental protection agency standards. The rules shall provide that the biodiesel refiner is responsible for meeting the ASTM standards required by this act when providing biodiesel fuel into the distribution system. If a conflict exists between federal environmental protection agency standards, ASTM standards, or NIST standards, for purposes of uniformity, federal environmental protection agency standards shall take precedence over ASTM and NIST standards. The department of agriculture shall not exceed ASTM standards for diesel.

(2) The rules adopted under subsection (1) of this section shall be updated to provide for fuel stability standards when national or international fuel stability standards have been adopted.

Sec. 8. RCW 19.112.020 and 1990 c 102 s 3 are each amended to read as follows:

(1) This chapter shall be administered by the director or his or her authorized agent. For the purpose of administering this chapter, for motor fuel except biodiesel fuel, the standards set forth in the Annual Book of ASTM Standards and supplements thereto, and revisions thereof, are adopted, together with applicable federal environmental protection agency standards. If a conflict exists between federal environmental protection agency standards, ASTM standards, or state standards, for purposes of uniformity, federal environmental protection agency standards shall take precedence over ASTM standards. Any state standards adopted must be consistent with federal environmental protection agency standards and ASTM standards not in conflict with federal environmental protection agency standards.

(2) The director may establish a fuel testing laboratory or may contract with a laboratory for testing. The director may also adopt rules on false and misleading advertising, labeling and posting of prices, and the standards for, and identity of, motor fuels. The director shall require fuel pumps offering biodiesel and ethanol blends to be identified by a label stating the percentage of biodiesel or ethanol.

(3) The rules adopted under section 7 of this act shall also provide that the diesel refiner is responsible for meeting the ASTM standards required by this act when providing diesel fuel into the distribution system.

NEW SECTION. Sec. 9. A new section is added to chapter 19.112 RCW to read as follows:

The director shall establish a biofuels advisory committee to advise the director on implementing or suspending the minimum renewable fuel content requirements. The committee shall advise the director on applicability to all users; logistical, technical, and economic issues of implementation, including the potential for credit trading, compliance and enforcement provisions, and

tracking and reporting requirements; and how the use of renewable fuel blends greater than two percent and renewable fuels other than biodiesel or ethanol could achieve the goals of chapter ..., Laws of 2006 (this act). In addition, the committee shall make recommendations to the legislature and governor on the potential to use alternatives to biodiesel, which are produced from nonpetroleum renewable sources (inclusive of vegetable oils and animal fats), to meet the minimum renewable fuel content requirement. The director shall make recommendations to the legislature and the governor on the implementation or suspension of chapter . . . , Laws of 2006 (this act) by September 1, 2007.

**Sec. 10.** RCW 43.19.642 and 2003 c 17 s 2 are each amended to read as follows:

(1) All state agencies are encouraged to use a fuel blend of twenty percent biodiesel and eighty percent petroleum diesel for use in diesel-powered vehicles and equipment.

(2) Effective June 1, 2006, for agencies complying with the ultra-low sulfur diesel mandate of the United States environmental protection agency for on-highway diesel fuel, agencies shall use biodiesel as an additive to ultra-low sulfur diesel for lubricity, provided that the use of a lubricity additive is warranted and that the use of biodiesel is comparable in performance and cost with other available lubricity additives. The amount of biodiesel added to the ultra-low sulfur diesel fuel shall be not less than two percent.

(3) Effective June 1, 2009, state agencies are required to use a minimum of twenty percent biodiesel as compared to total volume of all diesel purchases made by the agencies for the operation of the agencies' diesel-powered vessels, vehicles, and construction equipment.

(4) All state agencies using biodiesel fuel shall, beginning on July 1, 2006, file quarterly reports with the department of general administration documenting the use of the fuel and a description of how any problems encountered were resolved.

**NEW SECTION. Sec. 11.** A new section is added to chapter 19.112 RCW to read as follows:

The governor, by executive order, may suspend all or portions of the minimum renewable fuel content requirements in section 2 or 3 of this act, or RCW 43.19.642, based on a determination that such requirements are temporarily technically or economically infeasible, or pose a significant risk to public safety.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.19 RCW to read as follows:

(1) The department of general administration must assist state agencies seeking to meet the biodiesel fuel requirements in RCW 43.19.642 by coordinating the purchase and delivery of biodiesel if requested by any state agency. The department may use long-term contracts of up to ten years, when purchasing from in-state suppliers who use predominantly in-state feedstock, to secure a sufficient and stable supply of biodiesel for use by state agencies.

(2) The department shall compile and analyze the reports submitted under RCW 43.19.642(4) and report in an electronic format its findings and recommendations to the governor and committees of the legislature with responsibility for energy issues, within sixty days from the end of each reporting

period. The governor shall consider these reports in determining whether to temporarily suspend minimum renewable fuel content requirements as authorized under section 11 of this act.

**NEW SECTION. Sec. 13.** A new section is added to chapter 19.112 RCW to read as follows:

(1) By November 30, 2008, the director shall determine whether the state's diesel fuel supply is comprised of at least ten percent biodiesel made predominantly from Washington feedstock.

(2) By November 30, 2008, the director shall determine whether the state's gasoline fuel supply is comprised of at least twenty percent ethanol made predominantly from Washington feedstock, without jeopardizing continued attainment of the federal clean air act's national ambient air quality standard for ozone pollution.

(3) By December 1, 2008, the director shall notify the governor and the legislature of the findings in subsections (1) and (2) of this section.

(4) If the findings from the director indicate that the goals of subsection (1) or (2) of this section, or both, have been achieved, then the governor shall issue an executive order declaring that section 2 or 3 of this act, or both, are no longer applicable.

**NEW SECTION. Sec. 14.** A new section is added to chapter 19.112 RCW to read as follows:

(1) If either or both of the goals in section 13 of this act are not achieved by November 30, 2008, the director shall monitor the state's diesel and gasoline fuel supply until such time as those goals, or either of them, is met.

(2) The director shall report to the governor and the legislature regarding the goals in section 13 of this act by November 30th of the year in which a goal is met.

(3) Following notification under this section that a goal has been met, the governor shall prepare executive request legislation repealing section 2 or 3 of this act, or both, as applicable.

**Sec. 15.** RCW 19.112.010 and 1991 c 145 s 1 are each amended to read as follows:

~~(As used in this chapter.)~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Biodiesel fuel" means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the federal environmental protection agency and standards established by the American society of testing and materials.

(2) "Diesel" means special fuel as defined in RCW 82.38.020, and diesel fuel dyed in accordance with the regulations in 26 C.F.R. Sec. 48.4082-IT as of October 24, 2005.

(3) "Director" means the director of agriculture.

(4) "Motor fuel" means any liquid product used for the generation of power in an internal combustion engine used for the propulsion of a motor vehicle upon the highways of this state, and any biodiesel fuel. Motor fuels containing ethanol may be marketed if either (a) the base motor fuel meets the applicable

standards before the addition of the ethanol or (b) the resultant blend meets the applicable standards after the addition of the ethanol.

~~((2) "Director" means the director of agriculture.))~~

NEW SECTION. Sec. 16. This act takes effect July 1, 2006.

NEW SECTION. Sec. 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate March 6, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

## CHAPTER 339

[Engrossed Second Substitute Senate Bill 6239]

### CONTROLLED SUBSTANCES—METHAMPHETAMINE—IMPACTS

AN ACT Relating to the impact of controlled substances, primarily methamphetamine; amending RCW 2.28.170, 26.44.020, 26.44.020, 74.34.020, 64.44.010, 64.44.020, 64.44.030, 64.44.040, 64.44.050, 64.44.060, 64.44.070, 9.94A.533, 9.94A.660, and 9.94A.500; adding a new section to chapter 70.96A RCW; adding a new section to chapter 72.09 RCW; adding a new section to chapter 64.44 RCW; creating new sections; prescribing penalties; providing an effective date; and providing expiration dates.

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

### PART I

#### SUBSTANCE ABUSE REDUCTION

NEW SECTION. Sec. 101. A new section is added to chapter 70.96A RCW to read as follows:

(1) Any county that has imposed the sales and use tax authorized by RCW 82.14.460 may seek a state appropriation of up to one hundred thousand dollars annually beginning in fiscal year 2008 and ending in fiscal year 2010. The funds shall be used to provide additional support to counties for mental health or substance abuse treatment for persons with methamphetamine addiction. Local governments receiving funds under this section may not use the funds to supplant existing funding.

(2) Counties receiving funding shall: (a) Provide a financial plan for the expenditure of any potential funds prior to funds being awarded; (b) report annually to the appropriate committees of the legislature regarding the number of clients served, services provided, and a statement of expenditures; and (c) expend no more than ten percent for administrative costs or for information technology.

NEW SECTION. Sec. 102. A new section is added to chapter 72.09 RCW to read as follows:

(1) Through June 30, 2010, it is the intent of the legislature to provide one hundred additional placements for therapeutic drug and alcohol treatment in the state's correctional institutions, above the level of placements provided on January 1, 2006.

(2) This section expires June 30, 2010.

**NEW SECTION. Sec. 103.** It is the intent of the legislature to provide assistance for jurisdictions enforcing illegal drug laws that have historically been underserved by federally funded state narcotics task forces and are considered to be major transport areas of narcotics traffickers.

**NEW SECTION. Sec. 104.** (1) Three pilot enforcement areas shall be established for a period of four fiscal years, beginning July 1, 2006, and ending June 30, 2010, with one in the southwestern region of the state, comprising of Pacific, Wahkiakum, Lewis, Grays Harbor, and Cowlitz counties; one in the southeastern region of the state, comprising of Walla Walla, Columbia, Garfield, and Asotin counties; and one in the northeastern part of the state, comprising of Stevens, Ferry, Pend Oreille, and Lincoln counties. The counties comprising a specific pilot area shall coordinate with each other to establish and implement a regional strategy to enforce illegal drug laws.

(2) When funded by the legislature, funding is to be divided equally among the three pilot enforcement areas. This funding is intended to provide a minimum of four additional sheriff deputies for each pilot area, two deputy prosecutors who will support the counties that are included in the pilot area, a court clerk, and clerical staff to serve the pilot area. It is the intent of the legislature that those counties that have not previously received significant federal narcotics task force funding shall be allocated funding for at least one additional sheriff's deputy. Counties are encouraged to utilize drug courts and treatment programs, and to share resources that operate in the region through the use of interlocal agreements. The funding appropriated for this purpose must not be used to supplant existing funding and cannot be used for any purpose other than the enforcement of illegal drug laws.

The criminal justice training commission shall allocate funds to the Washington association of prosecuting attorneys and the Washington association of sheriffs and police chiefs. The Washington association of prosecuting attorneys is responsible for administration of the funding and programs for the prosecution of crimes and court proceedings. The Washington association of sheriffs and police chiefs shall administer the funds provided for law enforcement.

**NEW SECTION. Sec. 105.** The Washington association of sheriffs and police chiefs, the Washington association of prosecuting attorneys, and the Washington association of county officials shall jointly develop measures to determine the efficacy of the programs in the pilot areas. These measures shall include comparison of arrest rates before the implementation of this act and after, reduction of recidivism, and any other factors that are determined to be relevant to evaluation of the programs. The organizations named in this section shall present their findings to the legislature by December 1, 2008.

**Sec. 106.** RCW 2.28.170 and 2005 c 504 s 504 are each amended to read as follows:

(1) Counties may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing felony and nonfelony offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised

treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a drug court program must first:

(i) Exhaust all federal funding that is available to support the operations of its drug court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for drug court operations and associated services.

(b) Any county that establishes a drug court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The drug court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from substance abuse treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person.

**Sec. 107.** RCW 26.44.020 and 2000 c 162 s 19 are each amended to read as follows:

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

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

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

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

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

(13) "Child protective services section" means the child protective services section of the department.

(14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(15) "Negligent treatment or maltreatment" means an act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety, including but not limited to conduct prohibited under RCW 9A.42.100. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.

(16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without



just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

**Sec. 108.** RCW 26.44.020 and 2005 c 512 s 5 are each amended to read as follows:

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

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

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

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(13) "Child protective services section" means the child protective services section of the department.

(14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(15) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child ~~((do {does}))~~ does not constitute negligent treatment or maltreatment in and of ~~((themselves {itself}))~~ itself.

(16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

**Sec. 109.** RCW 74.34.020 and 2003 c 230 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(c) "Mental abuse" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(d) "Exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(3) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

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

(5) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed by the department.

(6) "Financial exploitation" means the illegal or improper use of the property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage.

(7) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

(8) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

(9) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

(10) "Permissive reporter" means any person, employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

(11) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

(12) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

(13) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Found incapacitated under chapter 11.88 RCW; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider.

**NEW SECTION. Sec. 110.** The department of community, trade, and economic development shall review federal, state, and local funding sources and funding levels available to local meth action teams through the Washington state methamphetamine initiative to determine whether funding is adequate to accomplish the mission of the meth action teams. The department shall also review the funding levels for drug task forces in the state of Washington to

determine whether they may require additional resources to successfully interdict drug trafficking organizations and clandestine labs statewide. The department shall report findings and recommendations to the legislature by November 1, 2006.

NEW SECTION. Sec. 111. The department of social and health services shall consult with faith-based organizations to discuss the appropriate role that such organizations may have in filling support service delivery needs for persons with chemical dependency disorders. The department shall report findings and recommendations to the legislature by November 1, 2006.

NEW SECTION. Sec. 112. The agency council on coordinated transportation shall adopt, as a part of its strategic program, a plan to increase access by recovering addicts to existing special needs transportation services already offered by medicaid brokerages and local transportation coalitions. The council may also implement an awareness campaign through department of corrections community corrections officers and service providers licensed by the department of social and health services division of alcohol and substance abuse to promote to recovering addicts seeking treatment the use of special needs transportation services, the council web site, and the statewide trip planner. The council shall report back to the legislature regarding the implementation of these strategies by November 1, 2006.

NEW SECTION. Sec. 113. The department of social and health services, in consultation with the attorney general, shall report to the legislature by January 15, 2007, on the status of ongoing multimedia campaigns to prevent methamphetamine use and underage drinking, and promote treatment, within the state of Washington.

## PART II CLEANUP OF CONTAMINATED PROPERTY

**Sec. 201.** RCW 64.44.010 and 1999 c 292 s 2 are each amended to read as follows:

The words and phrases defined in this section shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

(1) "Authorized contractor" means a person who decontaminates, demolishes, or disposes of contaminated property as required by this chapter who is certified by the department as provided for in RCW 64.44.060.

(2) "Contaminated" or "contamination" means polluted by hazardous chemicals so that the property is unfit for human habitation or use due to immediate or long-term hazards. Property that at one time was contaminated but has been satisfactorily decontaminated according to procedures established by the state board of health is not "contaminated."

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

(4) "Hazardous chemicals" means the following substances (~~used in~~) associated with the illegal manufacture of (~~illegal drugs~~) controlled substances: (a) Hazardous substances as defined in RCW 70.105D.020(~~and~~); (b) precursor substances as defined in RCW 69.43.010 which the state board of health, in consultation with the state board of pharmacy, has determined present

an immediate or long-term health hazard to humans; and (c) the controlled substance or substances being manufactured, as defined in RCW 69.50.101.

~~((4))~~ (5) "Officer" means a local health officer authorized under chapters 70.05, 70.08, and 70.46 RCW.

~~((5))~~ (6) "Property" means any real or personal property, ((site, structure, or part of a structure which)) or segregable part thereof, that is involved in or affected by the unauthorized manufacture, distribution, or storage of hazardous chemicals. This includes but is not limited to single-family residences, units of multiplexes, condominiums, apartment buildings, boats, motor vehicles, trailers, manufactured housing, ~~((or))~~ any shop, booth, ~~((or))~~ garden, or storage shed, and all contents of the items referenced in this subsection.

**Sec. 202.** RCW 64.44.020 and 1999 c 292 s 3 are each amended to read as follows:

Whenever a law enforcement agency becomes aware that property has been contaminated by hazardous chemicals, that agency shall report the contamination to the local health officer. The local health officer shall ~~((post))~~ cause a posting of a written warning on the premises within one working day of notification of the contamination and shall inspect the property within fourteen days after receiving the notice of contamination. The warning posting for any property that includes a hotel or motel holding a current license under RCW 70.62.220, shall be limited to inside the room or on the door of the contaminated room and no written warning posting shall be posted in the lobby of the facility. The warning shall inform the potential occupants that hazardous chemicals may exist on, or have been removed from, the premises and that entry is unsafe. If a property owner believes that a tenant has contaminated property that was being leased or rented, and the property is vacated or abandoned, then the property owner shall contact the local health officer about the possible contamination. Local health officers or boards may charge property owners reasonable fees for inspections of suspected contaminated property requested by property owners.

A local health officer may enter, inspect, and survey at reasonable times any properties for which there are reasonable grounds to believe that the property has become contaminated. If the property is contaminated, the local health officer shall post a written notice declaring that the officer intends to issue an order prohibiting use of the property as long as the property is contaminated.

If access to the property is denied, a local health officer in consultation with law enforcement may seek a warrant for the purpose of conducting administrative inspections. A superior, district, or municipal court within the jurisdiction of the property may, based upon probable cause that the property is contaminated, issue warrants for the purpose of conducting administrative inspections.

Local health officers must report all cases of contaminated property to the state department of health. The department may make the list of contaminated properties available to health associations, landlord and realtor organizations, prosecutors, and other interested groups. The department shall promptly update the list of contaminated properties to remove those which have been decontaminated according to provisions of this chapter.

The local health officer may determine when the services of an authorized contractor are necessary.

**Sec. 203.** RCW 64.44.030 and 1999 c 292 s 4 are each amended to read as follows:

(1) If after the inspection of the property, the local health officer finds that it is contaminated, then the ~~((property shall be found unfit for))~~ local health officer shall issue an order declaring the property unfit and prohibiting its use. The local health officer shall cause the order to be served ~~((an order prohibiting use))~~ either personally or by certified mail, with return receipt requested, upon all occupants and persons having any interest therein as shown upon the records of the auditor's office of the county in which such property is located. The local health officer shall also ~~((post))~~ cause the order ~~((prohibiting use))~~ to be posted in a conspicuous place on the property. If the whereabouts of such persons is unknown and the same cannot be ascertained by the local health officer in the exercise of reasonable diligence, and the health officer makes an affidavit to that effect, then the serving of the order upon such persons may be made either by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to each person at the address appearing on the last equalized tax assessment roll of the county where the property is located or at the address known to the county assessor, and the order shall be posted conspicuously at the residence. A copy of the order shall also be mailed, addressed to each person or party having a recorded right, title, estate, lien, or interest in the property. The order shall contain a notice that a hearing before the local health board or officer shall be held upon the request of a person required to be notified of the order under this section. The request for a hearing must be made within ten days of serving the order. The hearing shall then be held within not less than twenty days nor more than thirty days after the serving of the order. The officer shall prohibit use as long as the property is found to be contaminated. A copy of the order shall also be filed with the auditor of the county in which the property is located, where the order pertains to real property, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. In any hearing concerning whether property is fit for use, the property owner has the burden of showing that the property is decontaminated or fit for use. The owner or any person having an interest in the property may file an appeal on any order issued by the local health board or officer within thirty days from the date of service of the order with the appeals commission established pursuant to RCW 35.80.030. All proceedings before the appeals commission, including any subsequent appeals to superior court, shall be governed by the procedures established in chapter 35.80 RCW.

(2) If the local health officer determines immediate action is necessary to protect public health, safety, or the environment, the officer may issue or cause to be issued an emergency order, and any person to whom such an order is directed shall comply immediately. Emergency orders issued pursuant to this section shall expire no later than seventy-two hours after issuance and shall not impair the health officer from seeking an order under subsection (1) of this section.

**Sec. 204.** RCW 64.44.040 and 1999 c 292 s 5 are each amended to read as follows:

(1) Upon issuance of an order declaring property unfit and prohibiting its use, the city or county in which the contaminated property is located may take action to prohibit use, occupancy, or removal of such property; condemn,

decontaminate, or demolish the property; or ((t)) require that the property be vacated or the contents removed from the property. The city or county may use an authorized contractor if property is demolished, decontaminated, or removed under this section. The city, county, or contractor shall comply with all orders of the health officer during these processes. No city or county may condemn, decontaminate, or demolish property pursuant to this section until all procedures granting the right of notice and the opportunity to appeal in RCW 64.44.030 have been exhausted, but may prohibit use, occupancy, or removal of contaminated property pending appeal of the order.

(2)(a) It is unlawful for any person to enter upon any property, or to remove any property, that has been found unfit for use by a local health officer pursuant to RCW 64.44.030.

(b) This subsection does not apply to: (i) Health officials, law enforcement officials, or other government agents performing their official duties; (ii) authorized contractors or owners performing decontamination pursuant to authorization by the local health officer; and (iii) any person acting with permission of a local health officer, or of a superior court or hearing examiner following an appeal of a decision of the local health officer.

(c) Any person who violates this subsection is guilty of a misdemeanor.

(3) No provision of this section may be construed to limit the ability of the local health officer to permit occupants or owners of the property at issue to remove uncontaminated personal property from the premises.

**Sec. 205.** RCW 64.44.050 and 1999 c 292 s 6 are each amended to read as follows:

(1) An owner of contaminated property who desires to have the property decontaminated, demolished, or disposed of shall use the services of an authorized contractor unless otherwise authorized by the local health officer. The contractor and property owner shall prepare and submit a written work plan for decontamination, demolition, or disposal to the local health officer. The local health officer may charge a reasonable fee for review of the work plan. If the work plan is approved and the decontamination, demolition, or disposal is completed and the property is retested according to the plan and properly documented, then the health officer shall allow reuse of the property. A release for reuse document shall be recorded in the real property records indicating the property has been decontaminated, demolished, or disposed of in accordance with rules of the state department of health. The property owner is responsible for: (a) The costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemicals; and (b) the costs of the property's decontamination, demolition, and disposal expenses, as well as costs incurred by the local health officer resulting from the enforcement of this chapter.

(2) The local health officer has thirty days from the issuance of an order declaring a property unfit and prohibiting its use to establish a reasonable timeline for decontamination. The department of health shall establish the factors to be considered by the local health officer in establishing the appropriate amount of time.

The local health officer shall notify the property owner of the proposed time frame by United States mail to the last known address. Notice shall be postmarked no later than the thirtieth day from the issuance of the order. The



property owner may request a modification of the time frame by submitting a letter identifying the circumstances which justify such an extension to the local health officer within thirty-five days of the date of the postmark on the notification regardless of when received.

**Sec. 206.** RCW 64.44.060 and 1999 c 292 s 7 are each amended to read as follows:

(1) A contractor, supervisor, or worker may not perform decontamination, demolition, or disposal work unless issued a certificate by the state department of health. The department shall establish performance standards for contractors, supervisors, and workers by rule in accordance with chapter 34.05 RCW, the administrative procedure act. The department shall train and test, or may approve courses to train and test, contractors, supervisors, and ~~((their employees))~~ workers on the essential elements in assessing property used as an illegal ~~((drug))~~ controlled substances manufacturing or storage site to determine hazard reduction measures needed, techniques for adequately reducing contaminants, use of personal protective equipment, methods for proper decontamination, demolition, removal, and disposal of contaminated property, and relevant federal and state regulations. Upon successful completion of the training, and after a background check, the contractor, supervisor, or ~~((employee))~~ worker shall be certified.

(2) The department may require the successful completion of annual refresher courses provided or approved by the department for the continued certification of the contractor or employee.

(3) The department shall provide for reciprocal certification of any individual trained to engage in decontamination, demolition, or disposal work in another state when the prior training is shown to be substantially similar to the training required by the department. The department may require such individuals to take an examination or refresher course before certification.

(4) The department may deny, suspend, ~~((or))~~ revoke, or place restrictions on a certificate for failure to comply with the requirements of this chapter or any rule adopted pursuant to this chapter. A certificate may be denied, suspended, ~~((or))~~ revoked, or have restrictions placed on it on any of the following grounds:

(a) Failing to perform decontamination, demolition, or disposal work under the supervision of trained personnel;

(b) Failing to perform decontamination, demolition, or disposal work using department of health certified decontamination personnel;

(c) Failing to file a work plan;

~~((or))~~ (d) Failing to perform work pursuant to the work plan;

~~((or))~~ (e) Failing to perform work that meets the requirements of the department and the requirements of the local health officers;

~~((or))~~ (f) Failing to properly dispose of contaminated property;

~~((or))~~ (g) Committing fraud or misrepresentation in:

(i) Applying for or obtaining a certification, recertification, or reinstatement; (ii) seeking approval of a work plan; and (iii) documenting completion of work to the department or local health officer;

(h) Failing the evaluation and inspection of decontamination projects pursuant to section 208 of this act; or

(i) If the person has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order.

(5) A contractor, supervisor, or worker who violates any provision of this chapter may be assessed a fine not to exceed five hundred dollars for each violation.

(6) The department of health shall prescribe fees as provided for in RCW 43.70.250 for: The issuance and renewal of certificates, conducting background checks of applicants, the administration of examinations, and ~~((for))~~ the review of training courses.

(7) The decontamination account is hereby established in the state treasury. All fees collected under this chapter shall be deposited in this account. Moneys in the account may only be spent after appropriation for costs incurred by the department in the administration and enforcement of this chapter.

**Sec. 207.** RCW 64.44.070 and 1999 c 292 s 8 are each amended to read as follows:

(1) The state board of health shall promulgate rules and standards for carrying out the provisions in this chapter in accordance with chapter 34.05 RCW, the administrative procedure act. The local board of health and the local health officer are authorized to exercise such powers as may be necessary to carry out this chapter. The department shall provide technical assistance to local health boards and health officers to carry out their duties under this chapter.

(2) The department shall adopt rules for decontamination of a property used as ~~((an illegal drug))~~ a laboratory for the production of controlled substances and methods for the testing of porous and nonporous surfaces, ground water, surface water, soil, and septic tanks for contamination. The rules shall establish decontamination standards for hazardous chemicals, including but not limited to methamphetamine, lead, mercury, and total volatile organic compounds.

(3) The department shall adopt rules regarding independent third party sampling including those pertaining to:

(a) Verification of possible property contamination due to the illegal manufacture of controlled substances;

(b) Verification of satisfactory decontamination of property deemed contaminated and unfit for use;

(c) Certification of independent third party samplers;

(d) Qualifications and performance standards for independent third party samplers;

(e) Administration of background checks for third party sampler applicants;  
and

(f) The denial, suspension, or revocation of independent third party sampler certification.

(4) For the purposes of this section, an independent third party sampler is a person who is not an employee, agent, representative, partner, joint venturer, shareholder, or parent or subsidiary company of the authorized contractor, the authorized contractor's company, or the property owner.

NEW SECTION. Sec. 208. A new section is added to chapter 64.44 RCW to read as follows:

The department may evaluate annually a number of the property decontamination projects performed by licensed contractors to determine the adequacy of the decontamination work, using the services of an independent environmental contractor or state or local agency. If a project fails the evaluation and inspection, the contractor is subject to a civil penalty and license suspension, pursuant to RCW 64.44.060 (4) and (5); and the contractor is prohibited from performing additional work until deficiencies have been corrected.

NEW SECTION. Sec. 209. The department of community, trade, and economic development shall report to the legislature on the feasibility of providing incentives and protections to landlords to encourage housing rentals to recovering substance abusers or those convicted of drug crimes. A final report must be submitted to the appropriate committees of the legislature by January 1, 2007.

NEW SECTION. Sec. 210. The department of ecology shall, in consultation with interested local health jurisdictions and their corresponding city or county governments, conduct a pilot program to demonstrate application of existing legal methods and grant programs administered under the model toxics control act in chapter 70.105D RCW, and other available authorities and funds to clean up methamphetamine-contaminated property for a public purpose. This pilot program shall include: (1) A facility with hazardous substance releases to soil or ground water resulting from a former methamphetamine lab or other historic uses of the property that created liability under chapter 70.105D RCW; and (2) a facility where the primary issue is decontamination or demolition of methamphetamine contaminated structures and other solid waste related issues. The department of ecology shall submit a report on the pilot program to the appropriate committees of the legislature by January 1, 2007.

### PART III CRIMINAL SANCTIONS AND PROCEDURE

**Sec. 301.** RCW 9.94A.533 and 2003 c 53 s 58 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total

period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the

offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9A.10.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

- (a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;
- (b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);
- (c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

**Sec. 302.** RCW 9.94A.660 and 2005 c 460 s 1 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(c) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(d) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(e) The standard sentence range for the current offense is greater than one year; and

(f) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from drug addiction;

(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(d) Whether the offender and the community will benefit from the use of the alternative.

(3) The examination report must contain:

(a) Information on the issues required to be addressed in subsection (2) of this section; and

(b) A proposed treatment plan that must, at a minimum, contain:

(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(iv) Recommended crime-related prohibitions and affirmative conditions.

(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

(7) If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court may impose any of the following conditions:

(a) Devote time to a specific employment or training;

(b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

(c) Report as directed to a community corrections officer;

(d) Pay all court-ordered legal financial obligations;

(e) Perform community restitution work;



(f) Stay out of areas designated by the sentencing court;

(g) Such other conditions as the court may require such as affirmative conditions.

(8)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(9) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

(10) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

(11) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

**Sec. 303.** RCW 9.94A.500 and 2000 c 75 s 8 are each amended to read as follows:

(1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW (~~(or)~~), a criminal solicitation to commit such a violation under chapter 9A.28 RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to

his or her offense. In addition, the court shall, at the time of plea or conviction, order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the department to complete a presentence report before imposing a sentence.

The court shall consider the risk assessment report and presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all risk assessment reports and presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

(2) To prevent wrongful disclosure of information related to mental health services, as defined in RCW 71.05.445 and ~~((71.34.225))~~ 71.34.345, a court may take only those steps necessary during a sentencing hearing or any hearing in which the department presents information related to mental health services to the court. The steps may be taken on motion of the defendant, the prosecuting attorney, or on the court's own motion. The court may seal the portion of the record relating to information relating to mental health services, exclude the public from the hearing during presentation or discussion of information relating to mental health services, or grant other relief to achieve the result intended by this subsection, but nothing in this subsection shall be construed to prevent the subsequent release of information related to mental health services as authorized by RCW 71.05.445, ~~((71.34.225))~~ 71.34.345, or 72.09.585. Any person who otherwise is permitted to attend any hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely because the department intends to disclose or discloses information related to mental health services.

**NEW SECTION. Sec. 304.** The Washington institute for public policy shall conduct a study of criminal sentencing provisions of neighboring states for all crimes involving methamphetamine. The institute shall report to the legislature on any criminal sentencing increases necessary under Washington law to reduce or remove any incentives methamphetamine traffickers and manufacturers may have to locate in Washington. The report shall be completed by January 1, 2007.

NEW SECTION. Sec. 305. The Washington institute for public policy shall conduct a study of the drug offender sentencing alternative. The institute shall study recidivism rates for offenders who received substance abuse treatment while in confinement as compared to offenders who received treatment in the community or received no treatment. The institute shall report to the legislature by January 1, 2007.

#### PART IV MISCELLANEOUS

NEW SECTION. Sec. 401. Part headings used in this act are no part of the law.

NEW SECTION. Sec. 402. If specific funding for the purposes of each section of this act, referencing the section by section number and by bill or chapter number, is not provided by June 30, 2006, in the omnibus appropriations act, each section not referenced in the omnibus appropriations act is null and void.

NEW SECTION. Sec. 403. Section 107 of this act expires January 1, 2007.

NEW SECTION. Sec. 404. Section 108 of this act takes effect January 1, 2007.

Passed by the Senate March 7, 2006.

Passed by the House March 3, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

#### CHAPTER 340

[Substitute House Bill 2384]

#### GEOLOGICAL SURVEY

AN ACT Relating to geological survey; amending RCW 43.92.010, 43.92.020, 43.92.040, 43.92.060, 43.92.070, and 43.92.080; and adding new sections to chapter 43.92 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.92 RCW to read as follows:

It is the intent of the legislature that there be an effective state geological survey that can produce essential information that provides for the health, safety, and economic well-being of the citizens.

**Sec. 2.** RCW 43.92.010 and 1988 c 127 s 28 are each amended to read as follows:

There shall be a geological survey of the state (~~(which)~~ that shall be under the direction of the commissioner of public lands who shall have general charge of the survey, and shall appoint as supervisor of the survey a geologist of established reputation, to be known as the (~~supervisor of geology~~) state geologist.

**Sec. 3.** RCW 43.92.020 and 1965 c 8 s 43.92.020 are each amended to read as follows:

The geological survey shall have for its objects:

(1) An examination of the economic products of the state, ~~((viz))~~ including: ~~((The))~~ Gold, silver, copper, lead, and iron ores, as well as building stones, clays, coal, and all mineral substances of value;

(2) An examination and classification of ~~((the))~~ soils, and the study of their adaptability to particular crops;

(3) An investigation and report upon the water supplies, artesian wells, the water power of the state, gauging the streams, etc., with reference to their application for irrigation and other purposes;

(4) An examination and report upon the occurrence of different road building material;

(5) An examination of the physical features of the state with reference to their practical bearing upon the occupations of the people;

(6) The preparation of special geological and economic maps to illustrate the resources of the state;

(7) The preparation of special reports with necessary illustrations and maps, which shall embrace both the general and detailed description of the geology and natural resources of the state~~((s))~~; and

(8) The consideration of ~~((such other kindred))~~ similar scientific and economic questions ~~((as))~~ that, in the judgment of the ~~((director shall be))~~ state geologist, is deemed of value to the people of the state.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.92 RCW to read as follows:

In addition to the objectives stated in RCW 43.92.020, the geological survey must conduct and maintain an assessment of seismic, landslide, and tsunami hazards in Washington. This assessment must include the identification and mapping of volcanic, seismic, landslide, and tsunami hazards, an estimation of potential consequences, and the likelihood of occurrence. The maintenance of this assessment must include technical assistance to state and local government agencies on the proper interpretation and application of the results of this assessment.

**Sec. 5.** RCW 43.92.040 and 1965 c 8 s 43.92.040 are each amended to read as follows:

~~((The))~~ Regular and special reports of the geological survey, with proper illustrations and maps, shall be printed as ~~((the director may direct, and the))~~ directed by the state geologist. All reports shall be distributed or sold by ~~((him))~~ the department of natural resources as the interests of the state and of science demand~~((; and))~~. All money obtained by the sale of reports under this section shall be paid into the state treasury.

**Sec. 6.** RCW 43.92.060 and 1965 c 8 s 43.92.060 are each amended to read as follows:

The ~~((director))~~ state geologist may make provisions for topographic, geologic, and hydrographic surveys of the state in cooperation with the United States geological survey in such manner as in ~~((his))~~ the opinion of the state geologist will be of the greatest benefit to the agricultural, industrial, and geological requirements of the state~~((; PROVIDED, That))~~. However, the director of the United States geological survey ~~((agrees))~~ must first agree to expend on the part of the United States upon such surveys a sum equal to that expended by the state.

**Sec. 7.** RCW 43.92.070 and 1965 c 8 s 43.92.070 are each amended to read as follows:

In order to complete the topographic map of the state and for the purpose of making more extensive stream measurements, and otherwise investigating and determining the water supply of the state, the ~~((director))~~ state geologist may enter into such agreements with the director of the United States geological survey as will ~~((insure))~~ ensure that the surveys and investigations be carried on in the most economical manner, and that the maps and data be available for the use of the public as quickly as possible.

**Sec. 8.** RCW 43.92.080 and 1965 c 8 s 43.92.080 are each amended to read as follows:

In order to carry out the purposes of this chapter, all persons employed ~~((hereunder))~~ by the department of natural resources to carry out the duties of this chapter are authorized to enter and cross all land within the state ~~((doing thereby))~~ as long as no damage is done to private property.

Passed by the House March 4, 2006.

Passed by the Senate March 2, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

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## CHAPTER 341

[Engrossed Second Substitute Senate Bill 6175]

### SURFACE MINING

AN ACT Relating to regulation of surface mining by ensuring adequate performance security to cover reclamation costs for mines and providing fees for the operation of the surface mining program; amending RCW 78.44.085, 78.44.045, 78.44.087, and 42.56.270; adding new sections to chapter 78.44 RCW; creating a new section; and providing an effective date.

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

**Sec. 1.** RCW 78.44.085 and 2001 1st sp.s. c 5 s 1 are each amended to read as follows:

(1) An applicant for ~~((a))~~ an expansion of a permitted surface mine, a new reclamation permit under RCW 78.44.081, or for combining existing public or private reclamation permits, shall pay a nonrefundable application fee to the department before being granted ~~((a surface mining))~~ the requested permit or permit expansion. The amount of the application fee shall be ~~((one))~~ two thousand five hundred dollars.

(2) Permit holders submitting a revision to an application for an existing reclamation plan that is not an expansion shall pay a nonrefundable reclamation plan revision fee of one thousand dollars.

(3) After June 30, ~~((2004))~~ 2006, each public or private permit holder shall pay an annual permit fee ~~((of one thousand dollars))~~ in an amount pursuant to this section. The annual permit fee shall be payable to the department prior to the reclamation permit being issued and on the ~~((first))~~ anniversary of the permit date ~~((and))~~ each year thereafter.

(4)(a) Except as otherwise provided in this subsection, each public or private permit holder must pay an annual fee under this section based on the

categories of aggregate or mineral mined or extracted during the previous twelve months, as follows:

(i) Zero to fifty thousand tons: A fee of one thousand two hundred fifty dollars;

(ii) More than fifty thousand tons to three hundred fifty thousand tons: A fee of two thousand five hundred dollars;

(iii) More than three hundred fifty thousand tons: A fee of three thousand five hundred dollars.

(b) Annual fees paid by a county for mines used exclusively for public works projects and having less than seven acres of disturbed area per mine shall not exceed one thousand dollars.

(c) Annual fees are waived for all mines used primarily for public works projects if the mines are owned and primarily operated by counties with 1993 populations of less than twenty thousand persons, and if each mine has less than seven acres of disturbed area.

~~((3))~~ (5) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department are to be held as confidential and not released as part of a public records request under chapter 42.56 RCW.

(6) Appeals from any determination of the department shall not stay the requirement to pay any annual permit fee. Failure to pay the annual fees may constitute grounds for an order to suspend surface mining, pay fines, or ~~((cancellation of))~~ cancel the reclamation permit as provided in this chapter.

~~((4))~~ (7) All fees collected by the department shall be deposited into the surface mining reclamation account created in RCW 78.44.045.

~~((5))~~ (8) If the department delegates enforcement responsibilities to a county, city, or town, the department may allocate funds collected under this section to the county, city, or town.

~~((6))~~ (9) Within sixty days after receipt of ~~((a permit application))~~ an application for a new or expanded permit, the department shall advise applicants of any information necessary to successfully complete the application.

(10) In addition to other enforcement authority, the department may refer matters to a collection agency licensed under chapter 19.16 RCW when permit fees or fines are past due. The collection agency may impose its own fees for collecting delinquent permit fees or fines.

**Sec. 2.** RCW 78.44.045 and 1993 c 518 s 10 are each amended to read as follows:

(1) The surface mining reclamation account is created in the state treasury. Annual mining fees, funds received by the department from state, local, or federal agencies for research purposes, as well as other mine-related funds and fines received by the department shall be deposited into this account. Except as otherwise provided in this section, the surface mine reclamation account may be used by the department only to:

~~((1))~~ (a) Administer its regulatory program pursuant to this chapter;

~~((2))~~ (b) Undertake research relating to surface mine regulation, reclamation of surface mine lands, and related issues; and

~~((3))~~ (c) Cover costs arising from appeals from determinations made under this chapter.

(2) At the end of each fiscal biennium, any money collected from fees charged under RCW 78.44.085 that was not used for the administration and enforcement of surface mining regulation under this chapter must be used by the department for surveying and mapping sand and gravel sites in the state.

(3) Fines, interest, and other penalties collected by the department under the provisions of this chapter shall be used to reclaim surface mines abandoned prior to 1971.

**Sec. 3.** RCW 78.44.087 and 1997 c 186 s 1 are each amended to read as follows:

(1) The department should ensure that a sufficient performance security is available to reclaim each surface mine permitted under this chapter. To ensure sufficient funds are available:

(a) The department shall not issue a reclamation permit, except to public or governmental agencies, until the applicant has either deposited with the department an acceptable performance security on forms prescribed (~~and furnished~~) by the department that is deemed adequate by the department to cover reclamation costs or has complied with the blanket performance security option in section 4 of this act. A public or governmental agency shall not be required to post performance security.

(b) No person may create a disturbed area that meets or exceeds the minimum threshold for a reclamation permit without first submitting an adequate and acceptable performance security to the department and complying with all requirements of this chapter.

(2) (~~This performance security may be~~) The department may refuse to accept any performance security that the department, for any reason, deems to be inadequate to cover reclamation costs or is not in a form that is acceptable to the department.

(3) Acceptable forms of performance security are:

(a) Bank letters of credit acceptable to the department or irrevocable bank letters of credit from a bank or financial institution or organization authorized to transact business in the United States;

(b) A cash deposit;

(c) (~~Negotiable~~) Other forms of performance securities acceptable to the department as determined by rule;

(d) An assignment of a savings account;

(e) A savings certificate in a Washington bank on an assignment form prescribed by the department;

(f) (~~Assignments of interests in real property within the state of Washington~~) Approved participants in a state security pool if one is established; or

(g) A corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under Title 48 RCW and authorized by the department.

(~~3~~) (4) The performance security shall be conditioned upon the faithful performance of the requirements set forth in this chapter (~~and of~~), the rules adopted under it, and the reclamation permit.

(~~4~~) (5)(a) The department (~~shall have the authority to determine the amount of the performance security using a standardized performance security formula developed by the department. The amount of the security shall be~~

~~determined by the department and based on the estimated costs of completing reclamation according to the approved reclamation plan or minimum standards and related administrative overhead for the area to be surface mined during (a) the next twelve-month period, (b) the following twenty-four months, and (c) any previously disturbed areas on which the reclamation has not been satisfactorily completed and approved)) must determine the amount of the performance security as prescribed by this subsection.~~

~~(b) The department may determine the amount of the performance security based on the estimated cost of: (i) Completing reclamation according to the requirements of this chapter; or (ii) the reclamation permit for the area to be surface mined during the upcoming thirty-six months and any previously disturbed areas that have not been reclaimed.~~

~~(c) The department may determine the amount of the performance security based on an engineering cost estimate for reclamation that is provided by the permit holder. The engineering cost estimate must be prepared using engineering principles and methods that are acceptable to the department. If the department does not approve the engineering cost estimate, the department shall determine the amount of the performance security using a standardized performance security formula developed by the department by rule.~~

~~((5)) (6) The department may ((increase or decrease the amount of the performance security at any time to compensate for a change in the disturbed area, the depth of excavation, a modification of the reclamation plan, or any other alteration in the conditions of the mine that affects the cost of reclamation. The department may, for any reason, refuse any performance security not deemed adequate)) recalculate a surface mine's performance security based on subsection (5) of this section. When the department recalculates a performance security, the new calculation will not be prejudiced by the existence of any previous calculation. A new performance security must be submitted to the department within thirty days of the department's written request.~~

~~((6)) (7) Liability under the performance security and the permit holder's obligation to maintain the calculated performance security amount shall be maintained until ~~((reclamation is completed according to the approved reclamation plan to the satisfaction of the department))~~ the surface mine is reclaimed, unless released as hereinafter provided. Partial drawings will proportionately reduce the value of a performance security but will not extinguish the remaining value. Liability under the performance security may be released only ~~((upon written notification by the department. Notification shall be given upon completion of compliance or acceptance by the department of a substitute performance security))~~ when the surface mine is reclaimed as evidenced by the department in writing or after the department receives and approves a substitute performance security. The department will notify the permit holder, and surety if applicable, when reclamation is accepted by the department as complete or upon the department's acceptance of an alternate security. The liability of the surety shall not exceed the amount of security required by this section and the department's reasonable legal fees to recover the security.~~

~~((7)) (8) Any interest or appreciation on the performance security shall be held by the department until ~~((reclamation is completed to its satisfaction. At such time, the interest shall be remitted to the permit holder; except that such~~~~



~~interest or appreciation may be used by the department to effect reclamation in the event that the permit holder fails to comply with the provisions of this chapter and the costs of reclamation exceed the face value of the performance security)) the surface mine is reclaimed. The department may collect and use appreciation or interest accrued on a performance security to the same extent as for the underlying performance security. If the permit holder meets its obligations under this chapter, rules adopted under this chapter, and its approved reclamation permit and plan by completing reclamation, the department will return any unused performance security and accrued interest or appreciation.~~

~~((8))~~ (9) No other state agency or local government other than the department shall require performance security for the purposes of surface mine reclamation. However, nothing in this section prohibits a state agency or local government from requiring a performance security when the state agency or local government is acting in its capacity as a landowner and contracting for extraction-related activities on state or local government property.

(10) The department may enter into written agreements with federal agencies in order to avoid redundant bonding of any surface ((mines straddling boundaries between federally controlled and other lands within)) mine that is located on both federal and nonfederal lands in Washington state.

~~((9) When acting in its capacity as a regulator, no other state agency or local government may require a surface mining operation regulated under this chapter to post performance security unless that state agency or local government has express statutory authority to do so. A state agency's or local government's general authority to protect the public health, safety, and welfare does not constitute express statutory authority to require a performance security. However, nothing in this section prohibits a state agency or local government from requiring a performance security when the state agency or local government is acting in its capacity as a landowner and contracting for extraction-related activities on state or local government property.))~~

NEW SECTION. Sec. 4. A new section is added to chapter 78.44 RCW to read as follows:

(1) A permit holder, in lieu of an individual performance security for each mining site, may file a blanket performance security with the department for their group of permits.

(2) The department may reduce the required performance security calculated from its standard method prescribed in RCW 78.44.087, to an amount not to exceed the sum of reclamation security calculated by the department for the two surface mines with the largest performance security obligations, for nonmetal and nonfuel surface mines that meet the following conditions:

(a) The permit holder has had a valid reclamation permit for more than ten years and can demonstrate exemplary mining and reclamation practices that have been accepted by the department;

(b) The landowner agrees to allow the permit holder to hold a blanket security. The department must include, on forms to be signed by the landowner, notice of the risk of a lien on the landowner's lands; and

(c) The permit holder can demonstrate substantial financial ability to perform the reclamation in the approved reclamation plan and permit.

(3) Permit holders are not eligible for blanket securities if they are in violation of a final order of the department.

(4) The department must consider the compliance history and the state of the existing surface mines of the permit holder before approving any blanket performance security.

(5) Lands covered by a blanket performance security are subject to a lien placed by the department in the event of abandonment.

(6) In lieu of the performance security required of the permit holder, the department may accept a similar security from the landowner, equal to the estimated cost of reclamation as determined by the department.

NEW SECTION. **Sec. 5.** A new section is added to chapter 78.44 RCW to read as follows:

(1) To the extent a performance security is insufficient to cover the cost of reclamation performed by the department, a lien shall be established in favor of the department upon all of the permit holder's real and personal property.

(2) The lien attaches upon the filing of a notice of claim of lien with the county clerk of the county in which the property is located. The notice of lien claim must contain a true statement of the demand, the insufficiency of the performance security to compensate the department, and the failure of the permit holder to perform the reclamation required.

(3) The lien becomes effective when filed.

(4) The lien created by this section may be foreclosed by a suit in the superior court in the manner provided by law for the foreclosure of other liens on real or personal property.

**Sec. 6.** RCW 42.56.270 and 2005 c 274 s 407 are each 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 43.163, 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) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license;

(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; ~~((and))~~

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development 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 community, trade, and economic development 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 community, trade, and economic development 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; and

(13) 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.

NEW SECTION. Sec. 7. Section 6 of this act takes effect July 1, 2006.

NEW SECTION. Sec. 8. The department of natural resources shall establish a surface mining advisory committee that will recommend effective

methods of accomplishing reclamation and address other issues deemed appropriate by the committee for the effective administration of chapter 78.44 RCW. The committee is comprised of but not limited to representatives of mining interests, state and local government, environmental groups, and private landowners. The state geologist will select the members of the committee. The department of natural resources must submit a report to the appropriate committees of the legislature containing the committee's findings by September 1, 2006.

Passed by the Senate March 7, 2006.

Passed by the House March 4, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

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### CHAPTER 342

[Engrossed Senate Bill 5179]

#### FOREST HEALTH

AN ACT Relating to forest health; creating new sections; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** (1) A work group is created to study opportunities to improve the forest health issues enumerated in RCW 76.06.140 that are facing forest land in Washington and to help the commissioner of public lands develop a strategic plan under section 3, chapter 218, Laws of 2004. The work group may, if deemed necessary, identify and focus on regions of the state where forest health issues enumerated in section 1 of this act are the most critical.

(2)(a) The work group is comprised of individuals selected on the basis of their knowledge of forests, forest ecology, or forest health issues and, if determined by the commissioner of public lands to be necessary, should represent a mix of individuals with knowledge regarding specific regions of the state. Members of the work group shall be appointed by the commissioner of public lands, unless otherwise specified, and shall include:

(i) The commissioner of public lands or the commissioner's designee, who shall serve as chair;

(ii) A representative of a statewide industrial timber landowner's group;

(iii) A landowner representative from the small forest landowner advisory committee established in RCW 76.13.110;

(iv) A representative of a college within a state university that specializes in forestry or natural resources science;

(v) A representative of an environmental organization;

(vi) A representative of a county that has within its borders state-owned forest lands that are known to suffer from the forest health deficiencies enumerated in RCW 76.06.140;

(vii) A representative of the Washington state department of fish and wildlife;

(viii) A forest hydrologist, an entomologist, and a fire ecologist, if available;

(ix) A representative of the governor appointed by the governor; and

(x) A representative of a professional forestry organization.

(b) In addition to the membership of the work group outlined in this section, the commissioner of public lands shall also invite the full and equal participation of:

(i) A representative of a tribal government located in a region of the state where the forest health issues enumerated in RCW 76.06.140 are present; and

(ii) A representative of both the United States forest service and the United States fish and wildlife service stationed to work primarily in Washington.

(3) The work group shall:

(a) Determine whether the goals and requirements of chapter 76.06 RCW are being met with regard to the identification, designation, and reduction of significant forest insect and disease threats to public and private forest resources, and whether the provisions of chapter 76.06 RCW are the most effective and appropriate way to address forest health issues;

(b) Study what incentives could be used to assist landowners with the costs of creating and maintaining forest health;

(c) Identify opportunities and barriers for improved prevention of losses of public and private resources to forest insects, diseases, wind, and fire;

(d) Assist the commissioner in developing a strategic plan under section 3, chapter 218, Laws of 2004 for increasing forest resistance and resilience to forest insects, disease, wind, and fire in Washington;

(e) Develop funding alternatives for consideration by the legislature;

(f) Explore possible opportunities for the state to enter into cooperative agreements with the federal government, or other avenues for the state to provide input on the management of federally owned land in Washington;

(g) Develop recommendations for the proper treatment of infested and fire and wind damaged forests on public and private lands within the context of working with interdisciplinary teams under the forest practices act to ensure that forest health is achieved with the protection of fish, wildlife, and other public resources;

(h) Analyze the state noxious weed control statutes and procedures (chapter 17.10 RCW) and the extreme hazard regulations adopted under the forest protection laws, to determine if the policies and procedures of these laws are applicable, or could serve as a model to support improved forest health; and

(i) Recommend whether the work group should be extended beyond the time that the required report has been submitted.

(4) The work group shall submit to the department of natural resources and the appropriate standing committees of the legislature, no later than December 30, 2006, its findings and recommendations for legislation that is necessary to implement the findings.

(5) The department of natural resources shall provide technical and staff support from existing staff for the work group created by this section.

(6) The work group is required to hold a minimum of five meetings, at diverse locations throughout the state, to gather public input regarding the group's proposed legislation.

(7) This section expires June 30, 2007.

**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, 2006, in the omnibus appropriations act, this act is null and void.

Passed by the Senate March 7, 2006.  
Passed by the House March 1, 2006.  
Approved by the Governor March 30, 2006.  
Filed in Office of Secretary of State March 30, 2006.

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**CHAPTER 343**

[Second Substitute House Bill 2754]

**VETERANS INNOVATIONS PROGRAM**

AN ACT Relating to creation of the veterans innovations program; amending RCW 43.60A.010 and 70.47.060; adding new sections to chapter 43.60A RCW; and adding new sections to chapter 43.131 RCW.

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

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

(1) A significant number of Washington citizens answered the call to serve our country in recent military action leaving behind families, community, employment, and education;

(2) Many soldiers returning to their families and communities face transition problems in areas such as family reunification, employment, education, and health;

(3) While the Washington state department of veterans affairs has provided services to many returning soldiers, a significant number have returned to families and communities without continuing ties to the military department or veterans' administration, but still in need of help; and

(4) Our state needs to honor and serve those who have protected our security and safety.

**Sec. 2.** RCW 43.60A.010 and 1975-'76 2nd ex.s. c 115 s 1 are each amended to read as follows:

As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Department" means the department of veterans affairs((:));

(2) "Director" means the director of the department of veterans affairs((:));

(3) "Committee" means the veterans affairs advisory committee.

(4) "Board" means the veterans innovations program board.

NEW SECTION. **Sec. 3.** There is created in the department a veterans innovations program, which consists of the defenders' fund and the competitive grant program. The purpose of the veterans innovations program is to provide crisis and emergency relief and education, training, and employment assistance to veterans and their families in their communities.

NEW SECTION. **Sec. 4.** The defenders' fund is created to provide assistance to members of the Washington national guard and reservists who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and who are experiencing financial hardships in employment, education, housing, and health care due to the significant period of time away from home serving our country. The program shall be administered by the department. Eligibility determinations shall be made by the department. Eligible veterans may receive a one-time grant of no more than five hundred dollars.

**NEW SECTION. Sec. 5.** The competitive grant program is created to fund innovative initiatives to provide crisis and emergency relief, education, training, and employment assistance to veterans and their families in their communities.

(1) The veterans innovations program board is created to exercise the powers granted under sections 1 and 3 through 8 of this act related to the competitive grant program.

(a) The board consists of seven citizens of the state, appointed by the governor, with recognized experience in serving veterans and their families in the community regarding transition and readjustment issues; education, training, and employment needs; and other needs experienced by veterans and their families stemming from service to their country.

(b) The members of the board select the chair.

(c) The department shall provide staff support to the board.

(d) Members of the board receive no compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(2) The board shall:

(a) Establish a competitive process to solicit proposals for and prioritize project applications for potential funding. The purpose of the proposals shall be in three categories:

(i) Crisis and emergency relief;

(ii) Education, training, and employment assistance; and

(iii) Community outreach and resources; and

(b) Report on January 1, 2007, to the appropriate standing committees of the legislature and to the joint committee on veterans and military affairs on the implementation of this act. The report must include, but is not limited to, information on the number of applications for assistance, the grant amount awarded each project, a description of each project, and performance measures of the program.

**NEW SECTION. Sec. 6.** (1) The department 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 defenders' fund and the competitive grant program and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17.710.

(2) The department may adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of sections 1 and 3 through 8 of this act.

(3) The department may perform all acts and functions as necessary or convenient to carry out the powers expressly granted or implied under this act.

**NEW SECTION. Sec. 7.** In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, no board member, appointive or otherwise, may participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any entity that would be the recipient of any aid under this chapter.

**NEW SECTION. Sec. 8.** The veterans innovations program account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for purposes of the veterans innovations program.

**Sec. 9.** RCW 70.47.060 and 2004 c 192 s 3 are each amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may, to the extent that funds are available, offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.47.030, and such other factors as the administrator deems appropriate.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (11) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (12) of this section.

(b) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.

(c) To determine the periodic premiums due the administrator from health coverage tax credit eligible enrollees. Premiums due from health coverage tax credit eligible enrollees must be in an amount equal to the cost charged by the managed health care system provider to the state for the plan, plus the administrative cost of providing the plan to those enrollees and the premium tax



under RCW 48.14.0201. The administrator will consider the impact of eligibility determination by the appropriate federal agency designated by the Trade Act of 2002 (P.L. 107-210) as well as the premium collection and remittance activities by the United States internal revenue service when determining the administrative cost charged for health coverage tax credit eligible enrollees.

(d) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator. The administrator shall establish a mechanism for receiving premium payments from the United States internal revenue service for health coverage tax credit eligible enrollees.

(e) To develop, as an offering by every health carrier providing coverage identical to the basic health plan, as configured on January 1, 2001, a basic health plan model plan with uniformity in enrollee cost-sharing requirements.

(3) To evaluate, with the cooperation of participating managed health care system providers, the impact on the basic health plan of enrolling health coverage tax credit eligible enrollees. The administrator shall issue to the appropriate committees of the legislature preliminary evaluations on June 1, 2005, and January 1, 2006, and a final evaluation by June 1, 2006. The evaluation shall address the number of persons enrolled, the duration of their enrollment, their utilization of covered services relative to other basic health plan enrollees, and the extent to which their enrollment contributed to any change in the cost of the basic health plan.

(4) To end the participation of health coverage tax credit eligible enrollees in the basic health plan if the federal government reduces or terminates premium payments on their behalf through the United States internal revenue service.

(5) To design and implement a structure of enrollee cost-sharing due a managed health care system from subsidized, nonsubsidized, and health coverage tax credit eligible enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(6) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists. Such a closure does not apply to health coverage tax credit eligible enrollees who receive a premium subsidy from the United States internal revenue service as long as the enrollees qualify for the health coverage tax credit program.

(7) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(8) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(9) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan for subsidized enrollees, nonsubsidized enrollees, or health coverage tax credit eligible enrollees. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(10) To receive periodic premiums from or on behalf of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(11) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized, nonsubsidized, or health coverage tax credit eligible enrollees, to give priority to members of the Washington national guard and reserves who served in operation enduring freedom, operation Iraqi freedom, or operation noble eagle, and their spouses and dependents, for enrollment in the Washington basic health plan, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. Funds received by a family as part of participation in the adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward a family's current gross family income for the purposes of this chapter. When an enrollee fails to report income or income changes accurately, the administrator shall have the authority either to bill the enrollee for the amounts overpaid by the state or to impose civil penalties of up to two hundred percent of the amount of subsidy overpaid due to the enrollee incorrectly reporting income. The administrator shall adopt rules to define the appropriate application of these sanctions and the processes to implement the sanctions provided in this subsection, within available resources. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(12) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(13) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same or actuarially equivalent for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(14) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(15) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(16) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(17) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

(18) In consultation with appropriate state and local government agencies, to establish criteria defining eligibility for persons confined or residing in government-operated institutions.

(19) To administer the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the Washington state health insurance pool.

NEW SECTION. Sec. 10. A new section is added to chapter 43.131 RCW to read as follows:

The veterans innovations program and its powers and duties shall be terminated on June 30, 2016, as provided in section 11 of this act.

NEW SECTION. Sec. 11. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2017.

- (1) Section 1 of this act;
- (2) Section 3 of this act;
- (3) Section 4 of this act;
- (4) Section 5 of this act;
- (5) Section 6 of this act;
- (6) Section 7 of this act; and
- (7) Section 8 of this act.

NEW SECTION. Sec. 12. Sections 1 and 3 through 8 of this act are each added to chapter 43.60A RCW.

Passed by the House March 7, 2006.

Passed by the Senate March 6, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

## CHAPTER 344

[Engrossed Senate Bill 6236]

### ELECTION DATES AND DEADLINES—PRIMARY ELECTION

AN ACT Relating to election dates and deadlines; amending RCW 29A.04.311, 29A.04.321, 29A.04.330, 29A.20.121, 29A.24.040, 29A.24.050, 29A.24.171, 29A.24.181, 29A.24.191, 29A.24.211, 29A.28.021, 29A.28.041, 29A.40.070, 29A.52.011, 29A.56.030, 29A.60.190, 27.12.355, 27.12.370, 35.02.086, 35.06.070, 35.13.1821, 35.13.480, 35.61.360, 35A.14.299, 35A.14.470, 36.24.190, 36.93.030, 42.12.040, 42.17.080, 42.17.710, 52.02.080, 52.04.056, 52.04.071, 53.04.110, 54.08.010, 54.08.070, 57.04.050, and 70.44.235; reenacting and amending RCW 29A.60.190; repealing RCW 29A.04.158; providing effective dates; and providing an expiration date.

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

**Sec. 1.** RCW 29A.04.311 and 2004 c 271 s 105 are each amended to read as follows:

Nominating primaries for general elections to be held in November, and the election of precinct committee officers, must be held on the third Tuesday of the preceding (~~September or on the seventh Tuesday immediately preceding such general election, whichever occurs first~~) August.

**Sec. 2.** RCW 29A.04.321 and 2004 c 271 s 106 are each amended to read as follows:

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, and district officers, and

for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A statewide general election shall be held on the first Tuesday after the first Monday of November of each year. However, the statewide general election held in odd-numbered years shall be limited to (a) city, town, and district general elections as provided for in RCW 29A.04.330, or as otherwise provided by law; (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the Congress of the United States; (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate.

(2) A county legislative authority may ~~((, if it deems an emergency to exist,))~~ call a special county election by presenting a resolution to the county auditor ~~((at least forty-five days))~~ prior to the proposed election date. Except as provided in subsection (4) of this section, a special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

- (a) The first Tuesday after the first Monday in February;
- (b) The second Tuesday in March;
- (c) The fourth Tuesday in April;
- (d) The third Tuesday in May;
- (e) The day of the primary as specified by RCW 29A.04.311; or
- (f) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) through (d) of this section must be presented to the county auditor at least fifty-two days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)(e) or (f) of this section must be presented to the county auditor at least eighty-four days prior to the election date.

(4) In addition to the dates set forth in subsection (2)(a) through (f) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

~~((4))~~ (5) In a presidential election year, if a presidential preference primary is conducted in February, March, April, or May under chapter 29A.56 RCW, the date on which a special election may be called by the county legislative authority under subsection (2) of this section during the month of that primary is the date of the presidential primary.

~~((5))~~ (6) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city,

town, and district elections, the purpose of this section being to establish mandatory dates for holding elections except for those elections held pursuant to a home-rule charter adopted under Article XI, section 4 of the state Constitution. This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

**Sec. 3.** RCW 29A.04.330 and 2004 c 266 s 6 are each amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

- (a) Elections for the recall of any elective public officer;
- (b) Public utility districts, conservation districts, or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;
- (c) Consolidation proposals as provided for in RCW 28A.315.235 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor (~~(at least forty-five days)~~) prior to the proposed election date, may(~~(, if the county auditor deems an emergency to exist,)~~) call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Except as provided in subsection (3) of this section, such a special election shall be held on one of the following dates as decided by the governing body:

- (a) The first Tuesday after the first Monday in February;
- (b) The second Tuesday in March;
- (c) The fourth Tuesday in April;
- (d) The third Tuesday in May;
- (e) The day of the primary election as specified by RCW (~~(29A.04.310)~~) 29A.04.311; or
- (f) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) through (d) of this section must be presented to the county auditor at least fifty-two days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)(e) or (f) of this section must be presented to the county auditor at least eighty-four days prior to the election date.

(4) In a presidential election year, if a presidential preference primary is conducted in February, March, April, or May under chapter 29A.56 RCW, the date on which a special election may be called under subsection (2) of this section during the month of that primary is the date of the presidential primary.

~~((4))~~ (5) In addition to subsection (2)(a) through (f) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in subsection (2)(e) and (f) of this section. Such

special election shall be conducted and notice thereof given in the manner provided by law.

~~((5))~~ (6) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

**Sec. 4.** RCW 29A.20.121 and 2004 c 271 s 110 are each amended to read as follows:

(1) Any nomination of a candidate for partisan public office by other than a major political party may be made only: (a) In a convention held not earlier than the ~~((last Saturday in June))~~ first Saturday in May and not later than the ~~((first))~~ second Saturday in ~~((July))~~ May or during any of the seven days immediately preceding the first day for filing declarations of candidacy as fixed in accordance with RCW 29A.28.041; (b) as provided by RCW 29A.60.021; or (c) as otherwise provided in this section. Minor political party and independent candidates may appear only on the general election ballot.

(2) Nominations of candidates for president and vice president of the United States other than by a major political party may be made either at a convention conducted under subsection (1) of this section, or at a similar convention taking place not earlier than the first ~~((Sunday in July))~~ Saturday in June and not later than ~~((seventy days before))~~ the ~~((general election))~~ fourth Saturday in July. Conventions held during this time period may not nominate candidates for any public office other than president and vice president of the United States, except as provided in subsection (3) of this section.

(3) If a special filing period for a partisan office is opened under RCW 29A.24.211, candidates of minor political parties and independent candidates may file for office during that special filing period. The names of those candidates may not appear on the general election ballot unless they are nominated by convention held no later than five days after the close of the special filing period and a certificate of nomination is filed with the filing officer no later than three days after the convention. The requirements of RCW 29A.20.131 do not apply to such a convention.

(4) A minor political party may hold more than one convention but in no case shall any such party nominate more than one candidate for any one partisan public office or position. For the purpose of nominating candidates for the offices of president and vice president, United States senator, United States representative, or a statewide office, a minor party or independent candidate holding multiple conventions may add together the number of signatures of different individuals from each convention obtained in support of the candidate or candidates in order to obtain the number required by RCW 29A.20.141. For all other offices for which nominations are made, signatures of the requisite number of registered voters must be obtained at a single convention.

**Sec. 5.** RCW 29A.24.040 and 2003 c 111 s 604 are each amended to read as follows:

A candidate may file his or her declaration of candidacy for an office by electronic means on a system specifically designed and authorized by a filing officer to accept filings.

(1) Filings that are received electronically must capture all information specified in RCW (~~29A.24.030~~) 29A.24.031 (1) through (4).

(2) Electronic filing may begin at 9:00 a.m. the (~~fourth~~) first Monday in (~~July~~) June and continue through 4:00 p.m. the following Friday.

(3) In case of special filing periods established in this chapter, electronic filings may be accepted beginning at 9:00 a.m. on the first day of the special filing period through 4:00 p.m. the last day of the special filing period.

**Sec. 6.** RCW 29A.24.050 and 2003 c 111 s 605 are each amended to read as follows:

Except where otherwise provided by this title, declarations of candidacy for the following offices shall be filed during regular business hours with the filing officer no earlier than the (~~fourth~~) first Monday in (~~July~~) June and no later than the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which an election to fill the vacancy is required in conjunction with the next state general election.

This section supersedes all other statutes that provide for a different filing period for these offices.

**Sec. 7.** RCW 29A.24.171 and 2004 c 271 s 165 are each amended to read as follows:

Filings for a nonpartisan office shall be reopened for a period of three normal business days, such three-day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law whenever before the (~~sixth~~) eleventh Tuesday prior to a primary:

(1) A void in candidacy occurs;

(2) A vacancy occurs in any nonpartisan office leaving an unexpired term to be filled by an election for which filings have not been held; or

(3) A nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified.

Candidacies validly filed within said three-day period shall appear on the ballot as if made during the earlier filing period.

**Sec. 8.** RCW 29A.24.181 and 2004 c 271 s 166 are each amended to read as follows:

Filings for a nonpartisan office (other than judge of the supreme court or superintendent of public instruction) shall be reopened for a period of three normal business days, such three-day period to be fixed by the election officer with whom such declarations of candidacy are filed and notice thereof given by notifying press, radio, and television in the county and by such other means as may now or hereafter be provided by law, when:

(1) A void in candidacy for such nonpartisan office occurs on or after the (~~sixth~~) eleventh Tuesday prior to a primary but prior to the (~~sixth~~) eleventh Tuesday before an election; or



(2) A nominee for judge of the superior court eligible after a contested primary for a certificate of election by Article 4, section 29, Amendment 41 of the state Constitution, dies or is disqualified within the ten-day period immediately following the last day allotted for a candidate to withdraw; or

(3) A vacancy occurs in any nonpartisan office on or after the ~~((sixth))~~ eleventh Tuesday prior to a primary but prior to the ~~((sixth))~~ eleventh Tuesday before an election leaving an unexpired term to be filled by an election for which filings have not been held.

The candidate receiving a plurality of the votes cast for that office in the general election shall be deemed elected.

**Sec. 9.** RCW 29A.24.191 and 2004 c 271 s 167 are each amended to read as follows:

A scheduled election shall be lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected, when:

(1) In an election for judge of the supreme court or superintendent of public instruction, a void in candidacy occurs on or after the ~~((sixth))~~ eleventh Tuesday prior to a primary, public filings and the primary being an indispensable phase of the election process for such offices;

(2) Except as otherwise specified in RCW 29A.24.181, a nominee for judge of the superior court entitled to a certificate of election pursuant to Article 4, section 29, Amendment 41 of the state Constitution dies or is disqualified on or after the ~~((sixth))~~ eleventh Tuesday prior to a primary;

(3) In other elections for nonpartisan office a void in candidacy occurs or a vacancy occurs involving an unexpired term to be filled on or after the ~~((sixth))~~ eleventh Tuesday prior to an election.

**Sec. 10.** RCW 29A.24.211 and 2004 c 271 s 116 are each amended to read as follows:

Filings for a partisan elective office shall be opened for a period of three normal business days whenever, on or after the first day of the regular filing period and before the ~~((sixth))~~ eleventh Tuesday prior to a primary, a vacancy occurs in that office, leaving an unexpired term to be filled by an election for which filings have not been held.

Any such special three-day filing period shall be fixed by the election officer with whom declarations of candidacy for that office are filed. The election officer shall give notice of the special three-day filing period by notifying the press, radio, and television in the county or counties involved, and by such other means as may be required by law.

Candidacies validly filed within the special three-day filing period shall appear on the ballot as if filed during the regular filing period.

**Sec. 11.** RCW 29A.28.021 and 2004 c 271 s 192 are each amended to read as follows:

A vacancy caused by the death or disqualification of any candidate or nominee of a major or minor political party may be filled at any time up to and including the day prior to the election for that position. For state partisan offices in any political subdivision voted on solely by electors of a single county, an individual shall be appointed to fill such vacancy by the county central committee in the case of a major political party or by the state central committee

or comparable governing body in the case of a minor political party. For other partisan offices, including federal or statewide offices, an individual shall be appointed to fill such vacancy by the state central committee or comparable governing body of the appropriate political party.

If the vacancy occurs no later than the ~~((sixth))~~ eleventh Tuesday prior to the state primary or general election concerned and the ballots have been printed, it shall be mandatory that they be corrected by the appropriate election officers. In making such correction, it shall not be necessary to reprint complete ballots if any other less expensive technique can be used and the resulting correction is reasonably clear.

If the vacancy occurs after the ~~((sixth))~~ eleventh Tuesday prior to the state primary or general election and time does not exist in which to correct ballots (including absentee ballots), either in total or in part, then the votes cast or recorded for the person who has died or become disqualified shall be counted for the person who has been named to fill such vacancy.

When the secretary of state is the person with whom the appointment by the major or minor political party is filed, the secretary shall, in certifying candidates or nominations to the various county officers insert the name of the person appointed to fill a vacancy.

If the secretary of state has already sent forth the certificate when the appointment to fill a vacancy is filed, the secretary shall forthwith certify to the county auditors of the proper counties the name and place of residence of the person appointed to fill a vacancy, the office for which the person is a candidate or nominee, the party the person represents, and all other pertinent facts pertaining to the vacancy.

**Sec. 12.** RCW 29A.28.041 and 2004 c 271 s 118 are each amended to read as follows:

(1) Whenever a vacancy occurs in the United States house of representatives or the United States senate from this state, the governor shall order a special election to fill the vacancy. Minor political party candidates and independent candidates may be nominated through the convention procedures provided in chapter 29A.20 RCW.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating major political party candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than six months before a state general election and before the second Friday following the close of the filing period for that general election, the special primary, special vacancy election, and minor party and independent candidate nominating conventions must be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW 29A.24.050 and on or before the second Friday following the close of the filing period, a special filing period of three normal business days shall be fixed by the

governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. The last day of the filing period shall not be later than the ~~((third))~~ sixth Tuesday before the primary at which major political party candidates are to be nominated. The names of major political party candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot. The requirements of RCW 29A.20.131 do not apply to a minor political party or independent candidate convention held under this subsection.

(5) If the vacancy occurs later than the second Friday following the close of the filing period, a special primary, special vacancy election, and the minor party and independent candidate conventions to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

**Sec. 13.** RCW 29A.40.070 and 2004 c 266 s 13 are each amended to read as follows:

(1) Except where a recount or litigation under RCW ~~((29A.68.010))~~ 29A.68.011 is pending, the county auditor shall have sufficient absentee ballots available for absentee voters of that county, other than overseas voters and service voters, at least twenty days before any primary, general election, or special election. The county auditor must mail absentee ballots to each voter for whom the county auditor has received a request nineteen days before the primary or election at least eighteen days before the primary or election. For a request for an absentee ballot received after the nineteenth day before the primary or election, the county auditor shall make every effort to mail ballots within one business day, and shall mail the ballots within two business days.

(2) ~~((The county auditor shall make every effort to mail ballots to overseas and service voters earlier than eighteen days before a primary or election))~~ At least thirty days before any primary, general election, or special election, the county auditor shall mail ballots to all overseas and service voters. A request for a ballot made by an overseas or service voter after that day must be processed immediately.

(3) Each county auditor shall certify to the office of the secretary of state the dates the ballots prescribed in subsection (1) of this section were available and mailed.

(4) If absentee ballots will not be available or mailed as prescribed in subsection (1) of this section, the county auditor shall immediately certify to the office of the secretary of state when absentee ballots will be available and mailed. Copies of this certification must be provided to the county canvassing board, the press, jurisdictions with issues on the ballot in the election, and any candidates.

(5) If absentee ballots were not available or mailed as prescribed in subsection (1) of this section, for a reason other than a recount or litigation, the county auditor, in consultation with the certification and training program of the office of the secretary of state, shall submit a report to the office of the secretary of state outlining why the deadline was missed and what corrective actions will be taken in future elections to ensure that absentee ballots are available and mailed as prescribed in subsection (1) of this section.

(6) Failure to have absentee ballots available and mailed as prescribed in subsection (1) of this section does not by itself provide a basis for an election contest or other legal challenge to the results of a primary, general election, or special election.

**Sec. 14.** RCW 29A.52.011 and 2004 c 271 s 172 are each amended to read as follows:

Whenever it shall be necessary to hold a special election in an odd-numbered year to fill an unexpired term of any office which is scheduled to be voted upon for a full term in an even-numbered year, no ~~((September))~~ primary election shall be held in the odd-numbered year if, after the last day allowed for candidates to withdraw, either of the following circumstances exist:

(1) No more than one candidate of each qualified political party has filed a declaration of candidacy for the same partisan office to be filled; or

(2) No more than two candidates have filed a declaration of candidacy for a single nonpartisan office to be filled.

In either event, the officer with whom the declarations of candidacy were filed shall immediately notify all candidates concerned and the names of the candidates that would have been printed upon the ~~((September))~~ primary ballot, but for the provisions of this section, shall be printed as nominees for the positions sought upon the November general election ballot.

**Sec. 15.** RCW 29A.56.030 and 2003 c 111 s 1403 are each amended to read as follows:

The name of any candidate for a major political party nomination for president of the United States shall be printed on the presidential preference primary ballot of a major political party only:

(1) By direction of the secretary of state, who in the secretary's sole discretion has determined that the candidate's candidacy is generally advocated or is recognized in national news media; or

(2) If members of the political party of the candidate have presented a petition for nomination of the candidate that has attached to the petition a sheet or sheets containing the signatures of at least one thousand registered voters who declare themselves in the petition as being affiliated with the same political party as the presidential candidate. The petition shall be filed with the secretary of state not later than ~~((the thirty-ninth day))~~ sixty days before the presidential preference primary. The signature sheets shall also contain the residence address and name or number of the precinct of each registered voter whose signature appears thereon and shall be certified in the manner prescribed in RCW 29A.72.230 and 29A.72.240.

The secretary of state shall place the name of the candidate on the ballot unless the candidate, at least ~~((thirty-five))~~ fifty-two days before the presidential preference primary, executes and files with the secretary of state an affidavit stating without qualification that he or she is not now and will not become a candidate for the office of president of the United States at the forthcoming presidential election. The secretary of state shall certify the names of all candidates who will appear on the presidential preference primary ballot to the respective county auditors on or before the fourth Tuesday in April of each presidential election year.

**Sec. 16.** RCW 29A.60.190 and 2005 c 243 s 16 and 2005 c 153 s 12 are each reenacted and amended to read as follows:

(1) Except as provided by subsection (3) of this section, ~~((ten))~~ fifteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each absentee ballot that was returned before the closing of the polls ~~((on the date of the primary or election for which it was issued))~~, and each absentee ballot ~~((with))~~ bearing a postmark on or before the date of the primary or election ~~((for which it was issued))~~ and received on or before the date on which the primary or election is certified, must be included in the canvass report.

(2) At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.

(3) On or before the thirtieth day after an election conducted under the instant runoff voting method for the pilot project authorized by RCW 29A.53.020, the canvassing board shall complete the canvass and certify the results.

**Sec. 17.** RCW 29A.60.190 and 2005 c 243 s 16 are each amended to read as follows:

(1) ~~((Ten))~~ Fifteen days after a primary or special election and twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each absentee ballot that was returned before the closing of the polls ~~((on the date of the primary or election for which it was issued))~~, and each absentee ballot ~~((with))~~ bearing a postmark on or before the date of the primary or election ~~((for which it was issued))~~ and received on or before the date on which the primary or election is certified, must be included in the canvass report.

(2) At the request of a caucus of the state legislature, the county auditor shall transmit copies of all unofficial returns of state and legislative primaries or elections prepared by or for the county canvassing board to either the secretary of the senate or the chief clerk of the house of representatives.

**Sec. 18.** RCW 27.12.355 and 1987 c 138 s 1 are each amended to read as follows:

(1) As provided in this section, a rural county library district, island library district, or intercounty rural library district may withdraw areas from its boundaries, or reannex areas into the library district that previously had been withdrawn from the library district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the board of trustees requesting the withdrawal and finding that, in the opinion of the board, inclusion of this area within the library district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of

establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The authority of an area to be withdrawn from a library district as provided under this section is in addition, and not subject, to the provisions of RCW 27.12.380.

The withdrawal of an area from the boundaries of a library district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the library district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a library district under this section may be reannexed into the library district upon: (a) Adoption of a resolution by the board of trustees proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date (~~specified in RCW 29.13.020 that occurs forty five or more days after the petitions have been validated~~) according to RCW 29A.04.330. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

**Sec. 19.** RCW 27.12.370 and 1982 c 123 s 14 are each amended to read as follows:

The county legislative authority or authorities shall by resolution call a special election to be held in such city or town at the next special election date (~~provided in RCW 29.13.010 but not less than forty five days from the date of the declaration of such finding~~) according to RCW 29A.04.321, and shall cause notice of such election to be given as provided for in RCW (~~29.27.080~~) 29A.52.351.

The election on the annexation of the city or town into the library district shall be conducted by the auditor of the county or counties in which the city or town is located in accordance with the general election laws of the state and the results thereof shall be canvassed by the canvassing board of the county or counties. No person shall be entitled to vote at such election unless he or she is registered to vote in said city or town for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"Shall the city or town of . . . . . be annexed to and be a part of . . . . . library district?

YES .....   
NO .....

If a majority of the persons voting on the proposition shall vote in favor thereof, the city or town shall thereupon be annexed and shall be a part of such library district.

Sec. 20. RCW 35.02.086 and 1986 c 234 s 11 are each amended to read as follows:

Each candidate for a city or town elective position shall file a declaration of candidacy with the county auditor of the county in which all or the major portion of the city or town is located(~~(, not more than forty-five nor less than thirty days)~~) prior to the primary election at which the initial elected officials are nominated, according to RCW 29A.24.050. The elective positions shall be as provided in law for the type of city or town and form or plan of government specified in the petition to incorporate, and for the population of the city or town as determined by the county legislative authority or boundary review board where applicable. Any candidate may withdraw his or her declaration (~~((at any time within five days after the last day allowed for filing declaration of candidacy))~~) according to RCW 29A.24.131. All names of candidates to be voted upon shall be printed upon the ballot alphabetically in groups under the designation of the respective titles of offices for which they are candidates. Names of candidates printed upon the ballot need not be rotated.

Sec. 21. RCW 35.06.070 and 1994 c 81 s 8 are each amended to read as follows:

A ballot proposition authorizing an advancement in classification of a town to a second class city shall be submitted to the voters of the town if either: (1) Petitions proposing the advancement are submitted to the town clerk that have been signed by voters of the town equal in number to at least ten percent of the voters of the town voting at the last municipal general election; or (2) the town council adopts a resolution proposing the advancement. The clerk shall immediately forward the petitions to the county auditor who shall review the signatures and certify the sufficiency of the petitions.

A ballot proposition authorizing an advancement shall be submitted to the town voters at the next (~~(municipal general)~~) special election (~~((occurring forty-five or more days after the petitions are submitted))~~) date according to RCW 29A.04.330 if the county auditor certifies the petitions as having sufficient valid signatures. The town shall be advanced to a second class city if the ballot proposition is approved by a simple majority vote, effective when the corporation is actually reorganized and the new officers are elected and qualified. The county auditor shall notify the secretary of state if the advancement of a town to a second class city is approved.

Sec. 22. RCW 35.13.1821 and 1998 c 286 s 2 are each amended to read as follows:

The annexation ordinance provided for in RCW 35.13.182 is subject to referendum for forty-five days after its passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by qualified

electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose (~~(not less than forty-five days nor more than ninety days after the filing of the referendum petition)~~) according to RCW 29A.04.330. Notice of the election shall be given as provided in RCW 35.13.080 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

**Sec. 23.** RCW 35.13.480 and 2003 c 299 s 2 are each amended to read as follows:

(1) The legislative body of any county planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process with the legislative body of any other cities or towns that are contiguous to the territory proposed for annexation in RCW 35.13.470 if:

(a) The county legislative body initiated an annexation process as provided in RCW 35.13.470; and

(b) The affected city or town legislative body adopted a responsive resolution rejecting the proposed annexation or declined to create the requested interlocal agreement with the county; or

(c) More than one hundred eighty days have passed since adoption of a county resolution as provided for in RCW 35.13.470 and the parties have not adopted or executed an interlocal agreement providing for the annexation of unincorporated territory. The legislative body for either the county or an affected city or town may, however, pass a resolution extending the negotiation period for one or more six-month periods if a public hearing is held and findings of fact are made prior to each extension.

(2) Any county initiating the process provided for in subsection (1) of this section must do so by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between the county and any city or town within the county. The annexation area must be within an urban growth area designated under RCW 36.70A.110 and at least sixty percent of the boundaries of the territory to be annexed must be contiguous to one or more cities or towns.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city or town legislative body shall adopt an ordinance providing for the annexation. The legislative body shall cause notice of the proposed effective date of the annexation, together with a description of the property to be annexed,



to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any area to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city or town upon the date fixed in the ordinance of annexation, which date may not be less than forty-five days after adoption of the ordinance.

(5) The annexation ordinances provided for in RCW 35.13.470(4) and subsection (4) of this section are subject to referendum for forty-five days after passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by registered voters in number equal to not less than fifteen percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose (~~(not less than forty-five days nor more than ninety days after the filing of the referendum petition)~~) according to RCW 29A.04.330. Notice of the election shall be given as provided in RCW 35.13.080 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

(6) If more than one city or town adopts interlocal agreements providing for annexation of the same unincorporated territory as provided by this section, an election shall be held in the area to be annexed pursuant to RCW 35.13.070 and 35.13.080. In addition to the provisions of RCW 35.13.070 and 35.13.080, the ballot shall also contain a separate proposition allowing voters to cast votes in favor of annexation to any one city or town participating in an interlocal agreement as provided by this section. If a majority of voters voting on the proposition vote against annexation, the proposition is defeated. If, however, a majority of voters voting in the election approve annexation, the area shall be annexed to the city or town receiving the highest number of votes among those cast in favor of annexation.

(7) Costs for an election required under subsection (6) of this section shall be borne by the county.

**Sec. 24.** RCW 35.61.360 and 1987 c 138 s 2 are each amended to read as follows:

(1) As provided in this section, a metropolitan park district may withdraw areas from its boundaries, or reannex areas into the metropolitan park district that previously had been withdrawn from the metropolitan park district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the park district commissioners requesting the withdrawal and finding that, in the opinion of the commissioners, inclusion of this area within the metropolitan park district will result in a reduction of the district's tax levy

rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The withdrawal of an area from the boundaries of a metropolitan park district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the metropolitan park district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a metropolitan park district under this section may be reannexed into the metropolitan park district upon: (a) Adoption of a resolution by the park district commissioners proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date (~~(specified in RCW 29.13.020 that occurs forty five or more days after the petitions have been validated)~~) according to RCW 29A.04.330. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

**Sec. 25.** RCW 35A.14.299 and 1967 ex.s. c 119 s 35A.14.299 are each amended to read as follows:

Such annexation ordinance as provided for in RCW 35A.14.297 shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose (~~(not less than forty-five days nor more than ninety days after the filing of the referendum petition)~~) according to RCW 29A.04.330. Notice of such

election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in RCW ((35A.14.060)) 35A.29.151. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the code city upon the date fixed in the ordinance of annexation. From and after such date, if the ordinance so provided, property in the annexed area shall be subject to the proposed zoning regulation prepared and filed for such area as provided in RCW 35A.14.330 and 35A.14.340. If the ordinance so provided, all property within the area annexed shall be assessed and taxed at the same rate and on the same basis as the property of such annexing code city is assessed and taxed to pay for any then outstanding indebtedness of such city contracted prior to, or existing at, the date of annexation.

**Sec. 26.** RCW 35A.14.470 and 2003 c 299 s 4 are each amended to read as follows:

(1) The legislative body of any county planning under chapter 36.70A RCW and subject to the requirements of RCW 36.70A.215 may initiate an annexation process with the legislative body of any other cities or towns that are contiguous to the territory proposed for annexation in RCW 35A.14.460 if:

(a) The county legislative body initiated an annexation process as provided in RCW 35A.14.460; and

(b) The affected city legislative body adopted a responsive resolution rejecting the proposed annexation or declined to create the requested interlocal agreement with the county; or

(c) More than one hundred eighty days have passed since adoption of a county resolution as provided for in RCW 35A.14.460 and the parties have not adopted or executed an interlocal agreement providing for the annexation of unincorporated territory. The legislative body for either the county or an affected city may, however, pass a resolution extending the negotiation period for one or more six-month periods if a public hearing is held and findings of fact are made prior to each extension.

(2) Any county initiating the process provided for in subsection (1) of this section must do so by adopting a resolution commencing negotiations for an interlocal agreement as provided in chapter 39.34 RCW between the county and any city or town within the county. The annexation area must be within an urban growth area designated under RCW 36.70A.110 and at least sixty percent of the boundaries of the territory to be annexed must be contiguous to one or more cities or towns.

(3) The agreement shall describe the boundaries of the territory to be annexed. A public hearing shall be held by each legislative body, separately or jointly, before the agreement is executed. Each legislative body holding a public hearing shall, separately or jointly, publish the agreement at least once a week for two weeks before the date of the hearing in one or more newspapers of general circulation within the territory proposed for annexation.

(4) Following adoption and execution of the agreement by both legislative bodies, the city or town legislative body shall adopt an ordinance providing for the annexation. The legislative body shall cause notice of the proposed effective

date of the annexation, together with a description of the property to be annexed, to be published at least once each week for two weeks subsequent to passage of the ordinance, in one or more newspapers of general circulation within the city and in one or more newspapers of general circulation within the territory to be annexed. If the annexation ordinance provides for assumption of indebtedness or adoption of a proposed zoning regulation, the notice shall include a statement of the requirements. Any area to be annexed through an ordinance adopted under this section is annexed and becomes a part of the city or town upon the date fixed in the ordinance of annexation, which date may not be less than forty-five days after adoption of the ordinance.

(5) The annexation ordinances provided for in RCW 35A.14.460(4) and subsection (4) of this section are subject to referendum for forty-five days after passage. Upon the filing of a timely and sufficient referendum petition with the legislative body, signed by registered voters in number equal to not less than fifteen percent of the votes cast in the last general state election in the area to be annexed, the question of annexation shall be submitted to the voters of the area in a general election if one is to be held within ninety days or at a special election called for that purpose (~~(not less than forty-five days nor more than ninety days after the filing of the referendum petition)~~) according to RCW 29A.04.330. Notice of the election shall be given as provided in RCW 35A.14.070 and the election shall be conducted as provided in the general election law. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the city or town upon the date fixed in the ordinance of annexation.

(6) If more than one city or town adopts interlocal agreements providing for annexation of the same unincorporated territory as provided by this section, an election shall be held in the area to be annexed pursuant to RCW 35A.14.070. In addition to the provisions of RCW 35A.14.070, the ballot shall also contain a separate proposition allowing voters to cast votes in favor of annexation to any one city or town participating in an interlocal agreement as provided by this section. If a majority of voters voting on the proposition vote against annexation, the proposition is defeated. If, however, a majority of voters voting in the election approve annexation, the area shall be annexed to the city or town receiving the highest number of votes among those cast in favor of annexation.

(7) Costs for an election required under subsection (6) of this section shall be borne by the county.

**Sec. 27.** RCW 36.24.190 and 1996 c 108 s 2 are each amended to read as follows:

In a county with a population of two hundred fifty thousand or more, the county legislative authority may, upon majority vote at an election called by the county legislative authority, adopt a system under which a medical examiner may be appointed to replace the office of the coroner. The county legislative authority must adopt a resolution or ordinance that creates the office of medical examiner at least thirty days prior to the first day of filing for the primary election for county offices. If a county adopts such a resolution or ordinance, the resolution or ordinance shall be referred to the voters for confirmation or

rejection at the next date for a special election (~~(that is more than forty-five days from the date the resolution or ordinance was adopted)~~) according to RCW 29A.04.321. If the resolution or ordinance is approved by majority vote, no election shall be held for the position of coroner and the coroner's position is abolished following the expiration of the coroner's term of office or upon vacating of the office of the coroner for any reason. The county legislative authority shall appoint a medical examiner to assume the statutory duties performed by the county coroner and the appointment shall become effective following the expiration of the coroner's term of office or upon the vacating of the office of the coroner. To be appointed as a medical examiner pursuant to this section, a person must either be: (1) Certified as a forensic pathologist by the American board of pathology; or (2) a qualified physician eligible to take the American board of pathology exam in forensic pathology within one year of being appointed. A physician specializing in pathology who is appointed to the position of medical examiner and who is not certified as a forensic pathologist must pass the pathology exam within three years of the appointment.

**Sec. 28.** RCW 36.93.030 and 1991 c 363 s 91 are each amended to read as follows:

(1) There is hereby created and established in each county with a population of two hundred ten thousand or more a board to be known and designated as a "boundary review board".

(2) A boundary review board may be created and established in any other county in the following manner:

(a) The county legislative authority may, by majority vote, adopt a resolution establishing a boundary review board; or

(b) A petition seeking establishment of a boundary review board signed by qualified electors residing in the county equal in number to at least five percent of the votes cast in the county at the last county general election may be filed with the county auditor.

Upon the filing of such a petition, the county auditor shall examine the same and certify to the sufficiency of the signatures thereon. No person may withdraw his or her name from a petition after it has been filed with the auditor. Within thirty days after the filing of such petition, the county auditor shall transmit the same to the county legislative authority, together with his or her certificate of sufficiency.

After receipt of a valid petition for the establishment of a boundary review board, the county legislative authority shall submit the question of whether a boundary review board should be established to the electorate at the next ~~((county))~~ primary or ~~((county))~~ general election ~~((which occurs more than forty-five days from the date of receipt of the petition))~~ according to RCW 29A.04.321. Notice of the election shall be given as provided in RCW ~~((29.27.080))~~ 29A.52.351 and shall include a clear statement of the proposal to be submitted.

If a majority of the persons voting on the proposition shall vote in favor of the establishment of the boundary review board, such board shall thereupon be deemed established.

**Sec. 29.** RCW 42.12.040 and 2003 c 238 s 4 are each amended to read as follows:

(1) If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the ~~((sixth))~~ eleventh Tuesday prior to the primary for the next general election following the occurrence of the vacancy, a successor shall be elected to that office at that general election. Except during the last year of the term of office, if such a vacancy occurs on or after the ~~((sixth))~~ eleventh Tuesday prior to the primary for that general election, the election of the successor shall occur at the next succeeding general election. The elected successor shall hold office for the remainder of the unexpired term. This section shall not apply to any vacancy occurring in a charter county which has charter provisions inconsistent with this section.

(2) If a vacancy occurs in any legislative office or in any partisan county office after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor who is of the same party as the incumbent may commence once he or she has qualified as defined in RCW ~~((29.01.135))~~ 29A.04.133 and shall continue through the term for which he or she was elected.

**Sec. 30.** RCW 42.17.080 and 2005 c 184 s 1 are each amended to read as follows:

(1) On the day the treasurer is designated, each candidate or political committee shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the treasurer resides, in addition to any statement of organization required under RCW 42.17.040 or 42.17.050, a report of all contributions received and expenditures made prior to that date, if any.

(2) At the following intervals each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides, or in the case of a political committee, the county in which the committee maintains its office or headquarters, and if there is no office or headquarters then in the county in which the treasurer resides, a report containing the information required by RCW 42.17.090:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and

(b) On the tenth day of the first month after the election ~~((:—PROVIDED, That this report shall not be required following a primary election from:~~

~~(i) A candidate whose name will appear on the subsequent general election ballot; or~~

~~(ii) Any continuing political committee)); and~~

(c) On the tenth day of each month in which no other reports are required to be filed under this section: PROVIDED, That such report shall only be filed if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

When there is no outstanding debt or obligation, and the campaign fund is closed, and the campaign is concluded in all respects, and in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there shall be no obligation to make any further reports.

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of the fifth business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of the one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date on which the special (~~or general~~) election is held, or for the period beginning the first day of the fifth month before the date on which the general election is held, and ending on the date of that special or general election, each Monday the treasurer shall file with the commission and the appropriate county elections officer a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds so deposited and the amount contributed by each person. However, contributions of no more than twenty-five dollars in the aggregate from any one person may be deposited without identifying the contributor. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

(4) If a city requires that candidates or committees for city offices file reports with a city agency, the candidate or treasurer so filing need not also file the report with the county auditor or elections officer.

(5) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17.040, the books of account must be open for public inspection by appointment at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any day from the eighth day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

(6) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(7) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(8) Copies of all reports filed pursuant to this section shall be readily available for public inspection for at least two consecutive hours Monday through Friday, excluding legal holidays, between 8:00 a.m. and 8:00 p.m., as specified in the committee's statement of organization filed pursuant to RCW

42.17.040, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.

(9) After January 1, 2002, a report that is filed with the commission electronically need not also be filed with the county auditor or elections officer.

(10) The commission shall adopt administrative rules establishing requirements for filer participation in any system designed and implemented by the commission for the electronic filing of reports.

**Sec. 31.** RCW 42.17.710 and 2003 c 164 s 3 are each amended to read as follows:

(1) During the period beginning on the thirtieth day before the date a regular legislative session convenes and continuing ~~((thirty days past))~~ through the date of final adjournment, and during the period beginning on the date a special legislative session convenes and continuing through the date that session adjourns, no state official or a person employed by or acting on behalf of a state official or state legislator may solicit or accept contributions to a public office fund, to a candidate or authorized committee, or to retire a campaign debt.

(2) This section does not apply to activities authorized in RCW 43.07.370.

**Sec. 32.** RCW 52.02.080 and 1989 c 63 s 6 are each amended to read as follows:

The election on the formation of the district and to elect the initial fire commissioners shall be conducted by the election officials of the county or counties in which the proposed district is located in accordance with the general election laws of the state. This election shall be held at the next general election date ~~((, as specified under RCW 29A.04.321 and 29A.04.330))~~ according to RCW 29A.04.321 and 29A.04.330, that occurs ~~((forty-five or more days))~~ after the date of the action by the boundary review board, or county legislative authority or authorities, approving the proposal.

**Sec. 33.** RCW 52.04.056 and 1989 c 63 s 11 are each amended to read as follows:

(1) As provided in this section, a fire protection district may withdraw areas from its boundaries, or reannex areas into the fire protection district that previously had been withdrawn from the fire protection district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the board of fire commissioners requesting the withdrawal and finding that, in the opinion of the board, inclusion of this area within the fire protection district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority or authorities of the county or counties within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.



The authority of an area to be withdrawn from a fire protection district as provided under this section is in addition, and not subject, to the provisions of RCW 52.04.101.

The withdrawal of an area from the boundaries of a fire protection district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the fire protection district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a fire protection district under this section may be reannexed into the fire protection district upon: (a) Adoption of a resolution by the board of fire commissioners proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority or authorities of the county or counties within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority or authorities, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date (~~(specified in RCW 29.13.020 that occurs forty five or more days after the petitions have been validated)~~) according to RCW 29A.04.330. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

**Sec. 34.** RCW 52.04.071 and 1984 c 230 s 16 are each amended to read as follows:

The county legislative authority or authorities shall by resolution call a special election to be held in the city or town and in the fire protection district at the next date (~~(provided in RCW 29.13.010 but not less than forty five days from the date of the declaration of the finding)~~) according to RCW 29A.04.321, and shall cause notice of the election to be given as provided for in RCW (~~(29.27.080)~~) 29A.52.351.

The election on the annexation of the city or town into the fire protection district shall be conducted by the auditor of the county or counties in which the city or town and the fire protection district are located in accordance with the general election laws of the state. The results thereof shall be canvassed by the canvassing board of the county or counties. No person is entitled to vote at the election unless he or she is a qualified elector in the city or town or unless he or she is a qualified elector within the boundaries of the fire protection district. The ballot proposition shall be in substantially the following form:

"Shall the city or town of . . . . . be annexed to and be a part of . . . . . fire protection district?

YES . . . . .  
NO . . . . . "

If a majority of the persons voting on the proposition in the city or town and a majority of the persons voting on the proposition in the fire protection district vote in favor thereof, the city or town shall be annexed and shall be a part of the fire protection district.

**Sec. 35.** RCW 53.04.110 and 1998 c 240 s 1 are each amended to read as follows:

Any port district now existing or which may hereafter be organized under the laws of the state of Washington is hereby authorized to change its corporate name under the following conditions and in the following manner:

(1) On presentation(~~(, at least forty-five days before any general port election to be held in the port district,)~~) of a petition to the commissioners of any port district now existing or which may hereafter be established under the laws of the state of Washington, signed by at least ten percent of the total number of voters of the port district who voted at the last general port election and asking that the corporate name of the port district be changed, it shall be the duty of the commissioners to submit to the voters of the port district the proposition as to whether the corporate name of the port shall be changed. The proposition shall be submitted at the next general port election according to RCW 29A.04.330.

(2) The petition shall contain the present corporate name of the port district and the corporate name which is proposed to be given to the port district.

(3) On submitting the proposition to the voters of the port district it shall be the duty of the port commissioners to cause to be printed on the official ballot used at the election the following proposition:

"Shall the corporate name, 'Port of . . . . . ' be changed to 'Port of . . . . . ' . . . . . YES  
"Shall the corporate name, 'Port of . . . . . ' be changed to 'Port of . . . . . ' . . . . . NO"

(4) At the time when the returns of the general election shall be canvassed by the commissioners of the port district, it shall be the duty of the commissioners to canvass the vote upon the proposition so submitted, recording in their record the result of the canvass.

(5) Should a majority of the registered voters of the port district voting at the general port election vote in favor of the proposition it shall be the duty of the port commissioners to certify the fact to the auditor of the county in which the port district shall be situated and to the secretary of state of the state of Washington, under the seal of the port district. On and after the filing of the certificate with the county auditor as aforesaid and with the secretary of state of the state of Washington, the corporate name of the port district shall be changed, and thenceforth the port district shall be known and designated in accordance therewith.

**Sec. 36.** RCW 54.08.010 and 1985 c 469 s 55 are each amended to read as follows:

At any general election held in an even-numbered year, the county legislative authority of any county in this state may, or, on petition of ten percent of the qualified electors of the county based on the total vote cast in the last general county election held in an even-numbered year, shall, by resolution, submit to the voters of the county the proposition of creating a public utility district which shall be coextensive with the limits of the county as now or hereafter established. A form of petition for the creation of a public utility district shall be submitted to the county auditor within ten months prior to the election at which the proposition is to be submitted to the voters. Petitions shall be filed with the county auditor not less than four months before the election and the county auditor shall within thirty days examine the signatures thereof and certify to the sufficiency or insufficiency thereof. If the petition be found to be insufficient, it shall be returned to the persons filing the same, who may amend or add names thereto for ten days, when the same shall be returned to the county auditor, who shall have an additional fifteen days to examine the same and attach his certificate thereto. No person having signed the petition shall be allowed to withdraw his name therefrom after the filing of the same with the county auditor: PROVIDED, That each signature shall be dated and that no signature dated prior to the date on which the form of petition was submitted to the county auditor shall be valid. Whenever the petition shall be certified to as sufficient, the county auditor shall forthwith transmit the same, together with his certificate of sufficiency attached thereto, to the county legislative authority which shall submit the proposition to the voters of the county at the next general election in an even-numbered year (~~occurring forty five days after submission of the proposition to the legislative authority~~) according to RCW 29A.04.330. The notice of the election shall state the boundaries of the proposed public utility district and the object of such election, and shall in other respects conform to the requirements of the general laws of the state of Washington, governing the time and manner of holding elections. In submitting the question to the voters for their approval or rejection, the proposition shall be expressed on the ballot substantially in the following terms:

- Public Utility District No. . . . . YES
- Public Utility District No. . . . . NO

Any petition for the formation of a public utility district may describe a less area than the entire county in which the petition is filed, the boundaries of which shall follow the then existing precinct boundaries and not divide any voting precinct; and in the event that such a petition is filed the county legislative authority shall fix a date for a hearing on such petition, and shall publish the petition, without the signatures thereto appended, for two weeks prior to the date of the hearing, together with a notice stating the time of the meeting when the petition will be heard. The publication, and all other publications required by chapter 1, Laws of 1931, shall be in a newspaper of general circulation in the county in which the district is situated. The hearing on the petition may be adjourned from time to time, not exceeding four weeks in all. If upon the final hearing the county legislative authority shall find that any lands have been unjustly or improperly included within the proposed public utility district and will not be benefited by inclusion therein, it shall change and fix the boundary lines in such manner as it shall deem reasonable and just and conducive to the

public welfare and convenience, and make and enter an order establishing and defining the boundary lines of the proposed public utility district: PROVIDED, That no lands shall be included within the boundaries so fixed lying outside the boundaries described in the petition, except upon the written request of the owners of those lands. Thereafter the same procedure shall be followed as prescribed in this chapter for the formation of a public utility district including an entire county, except that the petition and election shall be confined solely to the lesser public utility district.

No public utility district created after September 1, 1979, shall include any other public utility district within its boundaries: PROVIDED, That this paragraph shall not alter, amend, or modify provisions of chapter 54.32 RCW.

**Sec. 37.** RCW 54.08.070 and 1979 ex.s. c 240 s 2 are each amended to read as follows:

Any district which does not own or operate electric facilities for the generation, transmission or distribution of electric power on March 25, 1969, or any district which hereafter does not construct or acquire such electric facilities within ten years of its creation, shall not construct or acquire any such electric facilities without the approval of such proposal by the voters of such district: PROVIDED, That a district shall have the power to construct or acquire electric facilities within ten years following its creation by action of its commission without voter approval of such action.

At any general election held in an even-numbered year, the proposal to construct or acquire electric facilities may be submitted to the voters of the district by resolution of the public utility district commission or shall be submitted to the voters of the district by the county legislative authority on petition of ten percent of the qualified electors of such district, based on the total vote cast in the last general county election held in an even-numbered year. A form of petition for the construction or acquisition of electric facilities by the public utility district shall be submitted to the county auditor within ten months prior to the election at which such proposition is to be submitted to the voters. Petitions shall be filed with the county auditor not less than four months before such election and the county auditor shall within thirty days examine the signatures thereof and certify to the sufficiency or insufficiency thereof. If such petition is found to be insufficient, it shall be returned to the persons filing the same, who may amend and add names thereto for ten days, when the same shall be returned to the county auditor, who shall have an additional fifteen days to examine the same and attach his certificate thereto. No person having signed such petition shall be allowed to withdraw his name therefrom after the filing of the same with the county auditor: PROVIDED, That each signature shall be dated and that no signature dated prior to the date on which the form of petition was submitted to the county auditor shall be valid. Whenever such petition shall be certified to as sufficient, the county auditor shall forthwith transmit the same, together with his certificate of sufficiency attached thereto, to the county legislative authority which shall submit such proposition to the voters of said district at the next general election in an even-numbered year (~~occurring forty-five days after submission of the proposition to said legislative authority~~) according to RCW 29A.04.330. The notice of the election shall state the object of such election, and shall in other respects conform to the requirements of the

general laws of Washington, governing the time and manner of holding elections.

The proposal submitted to the voters for their approval or rejection, shall be expressed on the ballot substantially in the following terms:

Shall Public Utility District No. . . . . of . . . . . County construct or acquire electric facilities for the generation, transmission or distribution of electric power?

Yes

No

Within ten days after such election, the election board of the county shall canvass the returns, and if at such election a majority of the voters voting on such proposition shall vote in favor of such construction or acquisition of electric facilities, the district shall be authorized to construct or acquire electric facilities.

**Sec. 38.** RCW 57.04.050 and 1999 c 153 s 1 are each amended to read as follows:

Upon entry of the findings of the final hearing on the petition if one or more county legislative authorities find that the proposed district will be conducive to the public health, welfare, and convenience and will benefit the land therein, they shall present a resolution to the county auditor calling for a special election to be held at a date (~~specified under RCW 29.13.020, that occurs forty-five or more days after the resolution is presented~~) according to RCW 29A.04.330, at which a ballot proposition authorizing the district to be created shall be submitted to voters for their approval or rejection. The commissioners shall cause to be published a notice of the election for four successive weeks in a newspaper of general circulation in the proposed district, which notice shall state the hours during which the polls will be open, the boundaries of the district as finally adopted and the object of the election, and the notice shall also be posted ten days in ten public places in the proposed district. The district shall be created if the ballot proposition authorizing the district to be created is approved by a majority of the voters voting on the proposition.

A separate ballot proposition authorizing the district, if created, to impose a single-year excess levy for the preliminary expenses of the district shall be submitted to voters for their approval or rejection at the same special election, if the petition to create the district also proposed that a ballot proposition authorizing an excess levy be submitted to voters for their approval or rejection. The excess levy shall be proposed in the amount specified in the petition to create the district, not to exceed one dollar and twenty-five cents per thousand dollars of assessed value, and may only be submitted to voters for their approval or rejection if the special election is held in February, March, April, or May. The proposition to be effective must be approved in the manner set forth in Article VII, section 2(a) of the state Constitution.

**Sec. 39.** RCW 70.44.235 and 1987 c 138 s 4 are each amended to read as follows:

(1) As provided in this section, a public hospital district may withdraw areas from its boundaries, or reannex areas into the public hospital district that previously had been withdrawn from the public hospital district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the hospital district commissioners requesting the withdrawal and finding that, in the opinion of the commissioners, inclusion of this area within the public hospital district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The withdrawal of an area from the boundaries of a public hospital district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the public hospital district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a public hospital district under this section may be reannexed into the public hospital district upon: (a) Adoption of a resolution by the hospital district commissioners proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date (~~specified in RCW 29.13.020 that occurs forty five or more days after the petitions have been validated~~) according to RCW 29A.04.330. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

NEW SECTION. Sec. 40. RCW 29A.04.158 (September primary) and 2004 c 271 s 187 are each repealed.

NEW SECTION. Sec. 41. Sections 1 through 16 and 18 through 40 of this act take effect January 1, 2007.

NEW SECTION. Sec. 42. Section 16 of this act expires July 1, 2013.

NEW SECTION. Sec. 43. Section 17 of this act takes effect July 1, 2013.

Passed by the Senate February 1, 2006.  
Passed by the House March 1, 2006.  
Approved by the Governor March 30, 2006.  
Filed in Office of Secretary of State March 30, 2006.

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**CHAPTER 345**

[Senate Bill 6723]

**LEOFF RETIREMENT SYSTEM—ALLOWANCE OF MEMBERS KILLED IN THE COURSE  
OF EMPLOYMENT**

AN ACT Relating to the retirement allowance of a member who is killed in the course of employment; amending RCW 41.26.510; amending 2001 c 165 s 6 (uncodified); and creating a new section.

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

**Sec. 1.** RCW 41.26.510 and 2004 c 5 s 1 are each amended to read as follows:

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the

assumption that the ages of the spouse and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, is not subject to an actuarial reduction. The member's retirement allowance is computed under RCW 41.26.420.

(5) The retirement allowance paid to the spouse and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(14), shall include reimbursement for any payments of premium rates to the Washington state health care authority pursuant to RCW 41.05.080.

**Sec. 2.** 2001 c 165 s 6 (uncodified) is amended to read as follows:

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 except for section 2 of this act takes effect immediately [May 7, 2001]. This act applies to all surviving spouses and dependent children of (1) emergency service personnel and (2) members of the law enforcement officers' and fire fighters' retirement system plan 2, killed in the line of duty ~~((on or after January 1, 1998))~~.

**NEW SECTION. Sec. 3.** The legislature reserves the right to amend or repeal this act in the future and no member or beneficiary has a contractual right to receive any distribution not granted prior to that time.

Passed by the Senate February 14, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.



## CHAPTER 346

[Substitute House Bill 2426]

## UTILITIES AND TRANSPORTATION COMMISSION

AN ACT Relating to duties of the utilities and transportation commission, including commissioner appointments, delegation of powers, and appointment of administrative law judges; amending RCW 80.01.010, 80.01.030, 80.01.050, and 80.01.060; and adding a new section to chapter 80.01 RCW.

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

**Sec. 1.** RCW 80.01.010 and 1961 c 307 s 4 are each amended to read as follows:

There is hereby created and established a state commission to be known and designated as the Washington utilities and transportation commission, and in this chapter referred to as the commission.

The commission shall be composed of three members appointed by the governor, with the consent of the senate. Not more than two members of said commission shall belong to the same political party.

~~((The members of the first commission to be appointed after taking effect of this section shall be appointed for terms beginning April 1, 1951, and expiring as follows: One commissioner for the term expiring January 1, 1953; one commissioner for the term expiring January 1, 1955; one commissioner for the term expiring January 1, 1957. Each of the commissioners shall hold office until his successor is appointed and qualified. Upon the expiration of the terms of the three commissioners first to be appointed as herein provided,))~~ Each ~~((succeeding))~~ commissioner shall be appointed and hold office for the term of six years. ~~((One of such commissioners to be designated by))~~ The governor~~((;))~~ shall~~((;))~~ designate one of the commissioners to be chair of the commission during the term of the ~~((appointing))~~ governor~~((, be the chairman of the commission))~~.

Each commissioner shall receive a salary as may be fixed by the governor in accordance with the provisions of RCW 43.03.040.

Any member of the commission may be removed for inefficiency, malfeasance or misfeasance in office, upon specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a special tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time, place and procedure for the hearing, and the hearing shall be public. The decision of such tribunal shall be final and not subject to review.

If the tribunal specified herein finds the charges of the governor to be true, the governor shall have the right to immediately remove the commissioner from office, to declare the position of the commissioner vacant, and appoint another commissioner to the position in accordance with the provisions of the law.

Any vacancy arising in the office of commissioner shall be filled by appointment by the governor, and, except for persons appointed as pro tempore commissioners, an appointee selected to fill ~~((such))~~ a vacancy shall hold office for the balance of the full term for which his or her predecessor on the commission was appointed.

If a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he or

she shall present to the senate his or her nomination or nominations for the office to be filled.

**Sec. 2.** RCW 80.01.030 and 1961 c 14 s 80.01.030 are each amended to read as follows:

The commission shall appoint and employ a secretary and such accounting, engineering, expert and clerical assistants, and such other qualified assistants as may be necessary to carry on the administrative work of the commission.

The secretary shall be the custodian of the commission's official seal, and shall keep full and accurate minutes of all transactions, proceedings and determinations of the commission and perform such other duties as may be required by the commission.

The commission may deputize one or more of its assistants to perform, in the name of the commission, such duties of the commission as it deems expedient. The commission may, by rule or order, delegate to designated assistants any of the powers and duties vested in or imposed upon the commission by law except matters governed by chapter 34.05 RCW; however, a matter may not be delegated to a person who has worked as an advocate on the same docket. Delegated powers and duties may be exercised in the name of the commission. The commission by rule shall implement a process by which notice shall be provided of matters designated for delegation. Any such matter shall be heard or reviewed by commissioners at the request of any commissioner or any affected person.

**NEW SECTION. Sec. 3.** A new section is added to chapter 80.01 RCW to read as follows:

When a commissioner has heard all or a substantial part of an adjudicative proceeding and leaves office before entry of a final order in the proceeding, at the request of the remaining commissioners the commissioner leaving office may be appointed by the governor as commissioner pro tempore to complete the proceeding. A proceeding is completed when the commission enters a final order purporting to resolve all contested issues therein, from which no party seeks clarification or reconsideration, or upon entry of an order on clarification or reconsideration, even though the order is subject to a petition for judicial review. A commissioner pro tempore shall receive a reasonable compensation to be fixed by the remaining members of the commission.

**Sec. 4.** RCW 80.01.050 and 1995 c 331 s 2 are each amended to read as follows:

A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission, and may hold hearings at any time or place within or without the state. A quorum of commissioners need not affirm any matter delegated under RCW 80.01.030. Any investigation, inquiry, or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner or any ~~((employee designated and authorized by the commission))~~ administrative law judge as provided in RCW 80.01.060. All investigations, inquiries, and hearings of the commission, and all findings, orders, or decisions, made by a commissioner or administrative law judge, when approved and confirmed by the commission or allowed to become

final pursuant to RCW 80.01.060 and filed in its office, shall be (~~and be deemed to be~~) the orders or decisions of the commission.

**Sec. 5.** RCW 80.01.060 and 1995 c 331 s 3 are each amended to read as follows:

(1) The commission may (~~designate employees of the commission as hearing examiners,~~) appoint administrative law judges(~~, and review judges~~) when it deems such action necessary for its general administration. The (~~designated employees have power to~~) administrative law judges may administer oaths, (~~to~~) issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony, (~~to~~) examine witnesses, make findings of probable cause and issue complaints in the name of the commission, and (~~to~~) receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules as the commission may adopt. The administrative law judges appointed under this subsection are not subject to chapter 41.06 RCW; however, they are subject to discipline and termination, for cause, by the executive secretary of the commission. Upon written request of the person so disciplined or terminated, the executive secretary shall state the reasons for such action in writing. The person affected has a right of review by the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of the written reasons.

(2) In general rate increase filings by a natural gas, electric, or telecommunications company, the (~~designated employee~~) administrative law judges may preside, but may not enter an initial order unless expressly agreed to in writing by the company making the filing. In all other cases, the (~~designated employee~~) administrative law judge may enter an initial order including findings of fact and conclusions of law in accordance with RCW 34.05.461(1)(a) and (c) and (3) through (9) or 34.05.485. RCW 34.05.461 (1)(b) and (2) do not apply to entry of orders under this section. (~~The designated employee~~)

(3) Administrative law judges may not enter final orders, except that the commission may designate persons by rule to preside and enter final orders in emergency adjudications under RCW 34.05.479. Initial orders of administrative law judges shall become final on the day following expiration of the time established by the commission for filing a petition for administrative review, unless, within that time, a party petitions for administrative review or the commission notifies parties that it will review the initial order on its own motion.

(~~3~~) (4) If the (~~designated employee~~) administrative law judge does not enter an initial order as provided in subsection (2) of this section, then a majority of the members of the commission who are to enter the final order must hear or review substantially all of the record submitted by any party.

Passed by the House February 14, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

**CHAPTER 347**

[Substitute Senate Bill 6473]

TELECOMMUNICATIONS COMPANIES—PRICE LISTS

AN ACT Relating to eliminating the requirement that telecommunications companies file price lists; amending RCW 80.36.100, 80.36.110, 80.36.320, and 80.36.330; and adding new sections to chapter 80.36 RCW.

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

**Sec. 1.** RCW 80.36.100 and 1989 c 101 s 9 are each amended to read as follows:

(1) Every telecommunications company shall file with the commission and shall print and keep open to public inspection at such points as the commission may designate, schedules showing the rates, tolls, rentals, and charges of such companies for messages, conversations and services rendered and equipment and facilities supplied for messages and services to be performed within the state between each point upon its line and all other points thereon, and between each point upon its line and all points upon every other similar line operated or controlled by it, and between each point on its line or upon any line leased, operated or controlled by it and all points upon the line of any other similar company, whenever a through service and joint rate shall have been established or ordered between any two such points.

(2) If no joint rate covering a through service has been established, the several companies in such through service shall file, print and keep open to public inspection as aforesaid the separately established rates, tolls, rentals, and charges applicable for such through service.

(3) The schedules printed as aforesaid shall plainly state the places between which telecommunications service, or both, will be rendered, and shall also state separately all charges and all privileges or facilities granted or allowed, and any rules or regulations which may in anywise change, affect or determine any of the aggregate of the rates, tolls, rentals or charges for the service rendered.

(4) A schedule shall be plainly printed in large type, and a copy thereof shall be kept by every telecommunications company readily accessible to and for convenient inspection by the public at such places as may be designated by the commission, which schedule shall state the rates charged from such station to every other station on such company's line, or on any line controlled and used by it within the state.

(a) All or any of such schedules kept as aforesaid shall be immediately produced by such telecommunications company upon the demand of any person.

(b) A notice printed in bold type, and stating that such schedules are on file and open to inspection by any person, the places where the same are kept, and that the agent will assist such person to determine from such schedules any rate, toll, rental, rule or regulation which is in force shall be kept posted by every telecommunications company in a conspicuous place in every station or office of such company.

(5) This section does not apply to telecommunications companies classified as competitive under RCW 80.36.320 or to telecommunications services classified as competitive under RCW 80.36.330.

**Sec. 2.** RCW 80.36.110 and 2003 c 189 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, unless the commission otherwise orders, no change shall be made in any rate, toll, rental, or charge, that was filed and published by any telecommunications company in compliance with the requirements of RCW 80.36.100, except after notice as required in this subsection.

(a) For changes to any rate, toll, rental, or charge filed and published in a tariff, the company shall provide thirty days' notice to the commission and publication for thirty days as required in the case of original schedules in RCW 80.36.100. The notice shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, toll, or charge will go into effect, and all proposed changes shall be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Proposed changes may be suspended by the commission within thirty days or before the stated effective date of the proposed change, whichever is later.

~~(b) ((For changes to any rate, toll, rental, or charge filed and published in a price list, the company shall provide ten days' notice to the commission and customers. The commission shall prescribe the form of notice.~~

~~(c))~~ The commission for good cause shown may allow changes in rates, charges, tolls, or rentals without requiring the notice and publication provided for in (a) ~~((or (b)))~~ of this subsection, by an order or rule specifying the change to be made and the time when it takes effect, and the manner in which the change will be filed and published.

~~((d))~~ ~~(c)~~ When any change is made in any rate, toll, rental, or charge, the effect of which is to increase any rate, toll, rental, or charge then existing, attention shall be directed on the copy filed with the commission to the increase by some character immediately preceding or following the item in the schedule, which character shall be in such a form as the commission may designate.

(2)(a) A telecommunications company may file a tariff that decreases any rate, charge, rental, or toll with ten days' notice to the commission and publication without receiving a special order from the commission when the filing does not contain an offsetting increase to another rate, charge, rental, or toll, and the filing company agrees not to file for an increase to any rate, charge, rental, or toll to recover the revenue deficit that results from the decrease for a period of one year.

(b) A telecommunications company may file a promotional offering to be effective, without receiving a special order from the commission, upon filing with the commission and publication. For the purposes of this section, "promotional offering" means a tariff ~~((or price list))~~ that, for a period of up to ninety days, waives or reduces charges or conditions of service for existing or new subscribers for the purpose of retaining or increasing the number of customers who subscribe to or use a service.

**Sec. 3.** RCW 80.36.320 and 2003 c 189 s 3 are each amended to read as follows:

(1) The commission shall classify a telecommunications company as a competitive telecommunications company if the services it offers are subject to effective competition. Effective competition means that the company's customers have reasonably available alternatives and that the company does not

have a significant captive customer base. In determining whether a company is competitive, factors the commission shall consider include but are not limited to:

- (a) The number and sizes of alternative providers of service;
- (b) The extent to which services are available from alternative providers in the relevant market;
- (c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (d) Other indicators of market power which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

The commission shall conduct the initial classification and any subsequent review of the classification in accordance with such procedures as the commission may establish by rule.

(2) Competitive telecommunications companies shall be subject to minimal regulation. ~~((Minimal regulation means that competitive telecommunications companies may file, instead of tariffs, price lists.))~~ The commission may ~~((also))~~ waive ~~((other))~~ any regulatory requirement~~((s))~~ under this title for competitive telecommunications companies when it determines that competition will serve the same purposes as public interest regulation. The commission may waive different regulatory requirements for different companies if such different treatment is in the public interest. A competitive telecommunications company shall at a minimum:

- (a) Keep its accounts according to regulations as determined by the commission;
- (b) File financial reports with the commission as required by the commission and in a form and at times prescribed by the commission; and
- (c) ~~((Keep on file at the commission such current price lists and service standards as the commission may require; and~~
- ~~((d))~~ Cooperate with commission investigations of customer complaints.

(3) ~~((When a telecommunications company has demonstrated that the equal access requirements ordered by the federal district court in the case of U.S. v. AT&T, 552 F. Supp. 131 (1982), or in supplemental orders, have been met, the commission shall review the classification of telecommunications companies providing inter LATA interexchange services. At that time, the commission shall classify all such companies as competitive telecommunications companies unless it finds that effective competition, as defined in subsection (1) of this section, does not then exist.~~

~~((4))~~ The commission may revoke any waivers it grants and may reclassify any competitive telecommunications company if the revocation or reclassification would protect the public interest.

~~((5))~~ (4) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a competitive telecommunications company if it finds that competition will serve the same purpose and protect the public interest.

**Sec. 4.** RCW 80.36.330 and 2003 c 189 s 4 are each amended to read as follows:

(1) The commission may classify a telecommunications service provided by a telecommunications company as a competitive telecommunications service if the service is subject to effective competition. Effective competition means that

customers of the service have reasonably available alternatives and that the service is not provided to a significant captive customer base. In determining whether a service is competitive, factors the commission shall consider include but are not limited to:

- (a) The number and size of alternative providers of services;
- (b) The extent to which services are available from alternative providers in the relevant market;
- (c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
- (d) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of providers of services.

(2) ~~((When the commission finds that a telecommunications company has demonstrated that a telecommunications service is competitive, the commission may permit the service to be provided under a price list. The commission may adopt procedural rules necessary to implement this section.))~~ Competitive telecommunications services are subject to minimal regulation. The commission may waive any regulatory requirement under this title for companies offering a competitive telecommunications service when it determines that competition will serve the same purposes as public interest regulation. The commission may waive different regulatory requirements for different companies if such different treatment is in the public interest. A company offering a competitive telecommunications service shall at a minimum:

- (a) Keep its accounts according to rules adopted by the commission;
- (b) File financial reports for competitive telecommunications services with the commission as required by the commission and in a form and at times prescribed by the commission; and
- (c) Cooperate with commission investigations of customer complaints.

(3) Prices or rates charged for competitive telecommunications services shall cover their cost. The commission shall determine proper cost standards to implement this section, provided that in making any assignment of costs or allocating any revenue requirement, the commission shall act to preserve affordable universal telecommunications service.

(4) The commission may investigate prices for competitive telecommunications services upon complaint. In any complaint proceeding initiated by the commission, the telecommunications company providing the service shall bear the burden of proving that the prices charged cover cost, and are fair, just, and reasonable.

(5) Telecommunications companies shall provide the commission with all data it deems necessary to implement this section.

(6) No losses incurred by a telecommunications company in the provision of competitive services may be recovered through rates for noncompetitive services. The commission may order refunds or credits to any class of subscribers to a noncompetitive telecommunications service which has paid excessive rates because of below cost pricing of competitive telecommunications services.

(7) The commission may reclassify any competitive telecommunications service if reclassification would protect the public interest.

(8) The commission may waive the requirements of RCW 80.36.170 and 80.36.180 in whole or in part for a service classified as competitive if it finds that competition will serve the same purpose and protect the public interest.

**NEW SECTION. Sec. 5.** A new section is added to chapter 80.36 RCW to read as follows:

(1) Until June 30, 2007, a telecommunications company may continue to maintain on file with the commission any price list that, pursuant to RCW 80.36.100, 80.36.320, and 80.36.330, was on file and in effect before the effective date of this act. The price list is subject to the statutes and rules in effect immediately before the effective date of this act.

(2) The commission may, upon petition by a company with a price list on file before the effective date of this act, extend the deadline in subsection (1) of this section until June 30, 2008. The commission may approve an extension only if the petitioning company demonstrates that it cannot reasonably implement a replacement for its price list by June 30, 2007, and that the extension of time will not result in harm to customers or competition.

**NEW SECTION. Sec. 6.** A new section is added to chapter 80.36 RCW to read as follows:

Each company withdrawing a filed price list shall provide each customer receiving service under the price list with information about the rates, terms, and conditions under which the service will continue to be provided. If the rates, terms, and conditions do not change upon withdrawal of the price list, such rates, terms, and conditions shall be binding to the same extent as the price list. If any of the rates, terms, and conditions do change upon withdrawal of the price list, the company must provide each customer with a reasonable opportunity to decide whether to accept the changed rate, term, or condition. If a customer does not cancel service within thirty days after notice of the change is given, the customer will be deemed to have accepted all the rates, terms, and conditions offered by the company.

Passed by the Senate February 14, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

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## CHAPTER 348

[Third Substitute House Bill 1226]

### CAMPAIGN CONTRIBUTION LIMITS

AN ACT Relating to campaign contribution limits; amending RCW 42.17.640, 42.17.700, 42.17.710, and 42.17.093; and adding new sections to chapter 42.17 RCW.

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

**Sec. 1.** RCW 42.17.640 and 2005 c 445 s 11 are each amended to read as follows:

(1) The contribution limits in this section apply to:

(a) Candidates for state legislative office;

(b) Candidates for state office other than state legislative office;

(c) Candidates for county office in a county that has over two hundred thousand registered voters;



(d) Candidates for special purpose district office if that district is authorized to provide freight and passenger transfer and terminal facilities and that district has over two hundred thousand registered voters;

(e) Persons holding an office in (a) through (d) of this subsection against whom recall charges have been filed or to a political committee having the expectation of making expenditures in support of the recall of a person holding the office;

(f) Caucus political committees;

(g) Bona fide political parties.

(2) No person, other than a bona fide political party or a caucus political committee, may make contributions to a candidate for a state legislative office or county office that in the aggregate exceed seven hundred dollars or to a candidate for a public office in a special purpose district or a state office other than a state legislative office that in the aggregate exceed one thousand four hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions to candidates subject to the limits in this section made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions to candidates subject to the limits in this section made with respect to a general election may not be made after the final day of the applicable election cycle.

~~(2)~~ (3) No person, other than a bona fide political party or a caucus political committee, may make contributions to a state official, a county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the state official, county official, or public official in a special purpose district during a recall campaign that in the aggregate exceed seven hundred dollars if for a state legislative office or county office or one thousand four hundred dollars if for a special purpose district office or a state office other than a state legislative office.

~~(3)~~ (4)(a) Notwithstanding subsection ~~(2)~~ (2) of this section, no bona fide political party or caucus political committee may make contributions to a candidate during an election cycle that in the aggregate exceed (i) seventy cents multiplied by the number of eligible registered voters in the jurisdiction from which the candidate is elected if the contributor is a caucus political committee or the governing body of a state organization, or (ii) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No candidate may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed thirty-five cents times the number of registered voters in the jurisdiction from which the candidate is elected.

~~((4))~~ (5)(a) Notwithstanding subsection ~~((2))~~ (3) of this section, no bona fide political party or caucus political committee may make contributions to a state official, county official, or a public official in a special purpose district against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the state official, county official, or a public official in a special purpose district during a recall campaign that in the aggregate exceed (i) seventy cents multiplied by the number of eligible registered voters in the jurisdiction entitled to recall the state official if the contributor is a caucus political committee or the governing body of a state organization, or (ii) thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected if the contributor is a county central committee or a legislative district committee.

(b) No ~~((state))~~ official holding an office specified in subsection (1) of this section against whom recall charges have been filed, no authorized committee of the official, and no political committee having the expectation of making expenditures in support of the recall of ~~((a-state))~~ the official may accept contributions from a county central committee or a legislative district committee during an election cycle that when combined with contributions from other county central committees or legislative district committees would in the aggregate exceed thirty-five cents multiplied by the number of registered voters in the jurisdiction from which the candidate is elected.

~~((5))~~ (6) For purposes of determining contribution limits under subsections ~~((3) and~~ (4) and (5) of this section, the number of eligible registered voters in a jurisdiction is the number at the time of the most recent general election in the jurisdiction.

~~((6))~~ (7) Notwithstanding subsections ~~((4))~~ (2) through ~~((4))~~ (5) of this section, no person other than an individual, bona fide political party, or caucus political committee may make contributions reportable under this chapter to a caucus political committee that in the aggregate exceed seven hundred dollars in a calendar year or to a bona fide political party that in the aggregate exceed three thousand five hundred dollars in a calendar year. This subsection does not apply to loans made in the ordinary course of business.

~~((7))~~ (8) For the purposes of RCW 42.17.640 through 42.17.790, a contribution to the authorized political committee of a candidate~~(;)~~ or of ~~((a-state))~~ an official specified in subsection (1) of this section against whom recall charges have been filed~~(;)~~ is considered to be a contribution to the candidate or ~~((state))~~ official.

~~((8))~~ (9) A contribution received within the twelve-month period after a recall election concerning ~~((a-state))~~ an office specified in subsection (1) of this section is considered to be a contribution during that recall campaign if the contribution is used to pay a debt or obligation incurred to influence the outcome of that recall campaign.

~~((9))~~ (10) The contributions allowed by subsection ~~((2))~~ (3) of this section are in addition to those allowed by subsection ~~((4))~~ (2) of this section, and the contributions allowed by subsection ~~((4))~~ (5) of this section are in addition to those allowed by subsection ~~((3))~~ (4) of this section.

~~((10))~~ (11) RCW 42.17.640 through 42.17.790 apply to a special election conducted to fill a vacancy in ~~((a-state))~~ an office specified in subsection (1) of this section. However, the contributions made to a candidate or received by a

candidate for a primary or special election conducted to fill such a vacancy shall not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

~~((11))~~ (12) Notwithstanding the other subsections of this section, no corporation or business entity not doing business in Washington state, no labor union with fewer than ten members who reside in Washington state, and no political committee that has not received contributions of ten dollars or more from at least ten persons registered to vote in Washington state during the preceding one hundred eighty days may make contributions reportable under this chapter to a candidate, to a state official against whom recall charges have been filed, or to a political committee having the expectation of making expenditures in support of the recall of the official. This subsection does not apply to loans made in the ordinary course of business.

~~((12))~~ (13) Notwithstanding the other subsections of this section, no county central committee or legislative district committee may make contributions reportable under this chapter to a candidate~~((, state official))~~ specified in subsection (1) of this section, or an official specified in subsection (1) of this section against whom recall charges have been filed, or political committee having the expectation of making expenditures in support of the recall of ~~((a state))~~ an official specified in subsection (1) of this section if the county central committee or legislative district committee is outside of the jurisdiction entitled to elect the candidate or recall the ~~((state))~~ official.

~~((13))~~ (14) No person may accept contributions that exceed the contribution limitations provided in this section.

~~((14))~~ (15) The following contributions are exempt from the contribution limits of this section:

(a) An expenditure or contribution earmarked for voter registration, for absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates; or

(b) An expenditure by a political committee for its own internal organization or fund raising without direct association with individual candidates.

**NEW SECTION. Sec. 2.** A new section is added to chapter 42.17 RCW to read as follows:

(1) No person may make contributions to a candidate for judicial office that in the aggregate exceed one thousand four hundred dollars for each election in which the candidate is on the ballot or appears as a write-in candidate. Contributions made with respect to a primary may not be made after the date of the primary. However, contributions to a candidate or a candidate's authorized committee may be made with respect to a primary until thirty days after the primary, subject to the following limitations: (a) The candidate lost the primary; (b) the candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary; and (c) the contributions may only be raised and spent to satisfy the outstanding debt. Contributions made with respect to a general election may not be made after the final day of the applicable election cycle.

(2) This section through RCW 42.17.790 apply to a special election conducted to fill a vacancy in an office. However, the contributions made to a candidate or received by a candidate for a primary or special election conducted to fill such a vacancy will not be counted toward any of the limitations that apply to the candidate or to contributions made to the candidate for any other primary or election.

(3) No person may accept contributions that exceed the contribution limitations provided in this section.

(4) The dollar limits in this section must be adjusted according to RCW 42.17.690.

NEW SECTION. Sec. 3. A new section is added to chapter 42.17 RCW to read as follows:

The commission shall adopt rules to carry out the policies of this act and is not subject to the time restrictions of RCW 42.17.370(1).

**Sec. 4.** RCW 42.17.700 and 1993 c 2 s 10 are each amended to read as follows:

(1) Contributions to candidates for state office made and received before December 3, 1992, are considered to be contributions under RCW 42.17.640 through 42.17.790. Monetary contributions that exceed the contribution limitations and that have not been spent by the recipient of the contribution by December 3, 1992, must be disposed of in accordance with RCW 42.17.095.

(2) Contributions to other candidates subject to the contribution limits of this chapter made and received before the effective date of this act are considered to be contributions under RCW 42.17.640 through 42.17.790. Contributions that exceed the contribution limitations and that have not been spent by the recipient of the contribution by the effective date of this act must be disposed of in accordance with RCW 42.17.095 except for subsections (6) and (7) of that section.

**Sec. 5.** RCW 42.17.710 and 2003 c 164 s 3 are each amended to read as follows:

(1) During the period beginning on the thirtieth day before the date a regular legislative session convenes and continuing thirty days past the date of final adjournment, and during the period beginning on the date a special legislative session convenes and continuing through the date that session adjourns, no state official or a person employed by or acting on behalf of a state official or state legislator may solicit or accept contributions to a public office fund, to a candidate or authorized committee, or to retire a campaign debt. Contributions received through the mail after the thirtieth day before a regular legislative session may be accepted if the contribution is postmarked prior to the thirtieth day before the session.

(2) This section does not apply to activities authorized in RCW 43.07.370.

**Sec. 6.** RCW 42.17.093 and 2003 c 123 s 2 are each amended to read as follows:

(1) An out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 shall report as required in this section when it makes an expenditure supporting or

opposing a Washington state candidate or political committee. The committee shall file with the commission a statement disclosing:

- (a) Its name and address;
- (b) The purposes of the out-of-state committee;
- (c) The names, addresses, and titles of its officers or, if it has no officers, the names, addresses, and the titles of its responsible leaders;
- (d) The name, office sought, and party affiliation of each candidate in the state of Washington whom the out-of-state committee is supporting or opposing and, if such committee is supporting or opposing the entire ticket of any party, the name of the party;
- (e) The ballot proposition supported or opposed in the state of Washington, if any, and whether such committee is in favor of or opposed to such proposition;
- (f) The name and address of each person residing in the state of Washington or corporation which has a place of business in the state of Washington who has made one or more contributions in the aggregate of more than twenty-five dollars to the out-of-state committee during the current calendar year, together with the money value and date of such contributions;
- (g) The name, address, and employer of each person or corporation residing outside the state of Washington who has made one or more contributions in the aggregate of more than two thousand five hundred dollars to the out-of-state committee during the current calendar year, together with the money value and date of such contributions. Annually, the commission must modify the two thousand five hundred dollar limit in this subsection based on percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the bureau of economic analysis of the federal department of commerce;
- (h) The name and address of each person in the state of Washington to whom an expenditure was made by the out-of-state committee with respect to a candidate or political committee in the aggregate amount of more than fifty dollars, the amount, date, and purpose of such expenditure, and the total sum of such expenditures; and
- ~~((H))~~ (i) Such other information as the commission may prescribe by rule in keeping with the policies and purposes of this chapter.

(2) Each statement shall be filed no later than the ~~((twentieth))~~ tenth day of the month following any month in which a contribution or other expenditure reportable under subsection (1) of this section is made. An out-of-state committee incurring an obligation to file additional statements in a calendar year may satisfy the obligation by timely filing reports that supplement previously filed information.

~~((3) A political committee required to file campaign reports with the federal election commission or its successor is exempt from reporting under this section.)~~

**NEW SECTION. Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the House March 4, 2006.

Passed by the Senate March 1, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

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**CHAPTER 349**

[Engrossed Second Substitute House Bill 2418]

**AFFORDABLE HOUSING**

AN ACT Relating to affordable housing; amending RCW 43.185C.010 and 43.63A.655; adding new sections to chapter 43.185 RCW; adding new sections to chapter 43.185A RCW; adding new sections to chapter 43.185C RCW; adding a new section to chapter 35.82 RCW; creating new sections; recodifying RCW 43.63A.655; and providing an expiration date.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 43.185 RCW to read as follows:

The legislature finds that Washington is experiencing an affordable housing crisis and that this crisis is growing exponentially every year as the population of the state expands and housing values increase at a rate that far exceeds most households' proportionate increase in income.

The fiscal and societal costs of the lack of adequate affordable housing are high for both the public and private sectors. Current levels of funding for affordable housing programs are inadequate to meet the housing needs of many low-income Washington households.

**NEW SECTION. Sec. 2.** The legislature may authorize a transfer of up to twenty-five million dollars for the fiscal year ending June 30, 2006, into the Washington housing trust fund created in RCW 43.185.030. Any portion of this act that is appropriated to the department shall be included in the calculation of annual funds available for determining the administrative costs of the department, which shall not exceed five percent of the annual funds available for the housing assistance program and the affordable housing program as authorized under RCW 43.185.030 and 43.185A.030.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.185 RCW to read as follows:

The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure for the housing trust fund, described in this chapter and chapter 43.185A RCW, except for the funds applied to the homeless families services fund created in RCW 43.330.167, dollars appropriated to weatherization administered through the energy matchmaker program, dollars appropriated for housing vouchers for homeless persons, victims of domestic violence, and low-income persons or seasonal farm workers, and dollars appropriated to any program to provide financial assistance for grower-provided on-farm housing for low-income migrant or seasonal farm workers.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.185A RCW to read as follows:

The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure described in section 3 of this act.

**NEW SECTION. Sec. 5.** The department must report to the appropriate committees of the legislature how appropriated funds were utilized on a county or city specific basis no later than December 31, 2007.

**Sec. 6.** RCW 43.185C.010 and 2005 c 484 s 3 are each amended to read as follows:

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

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

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, mentally ill people, and sex offenders who are homeless.

(4) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(5) "Homeless housing account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179.

(6) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the homeless housing account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(7) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(8) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(9) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(10) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(11) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, ~~((the director of))~~ policy level representatives of the following entities: (a) The department of community, trade, and economic development; (b) the ~~((secretary of the))~~ department of corrections; (c) the ~~((secretary of the))~~ department of social and health services; (d) the ~~((director of the))~~ department of veterans affairs; and (e) the ~~((secretary of the))~~ department of health.

(12) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(13) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(16) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

(17) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

(18) "Washington homeless client management information system" means a data base of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

NEW SECTION. Sec. 7. A new section is added to chapter 43.185C RCW to read as follows:

(1) The interagency council on homelessness, as defined in RCW 43.185C.010, shall be convened not later than August 31, 2006, and shall meet at least two times each year and report to the appropriate committees of the legislature annually by December 31st on its activities.

(2) The interagency council on homelessness shall work to create greater levels of interagency coordination and to coordinate state agency efforts with the efforts of state and local entities addressing homelessness.

(3) The interagency council shall seek to:

(a) Align homeless-related housing and supportive service policies among state agencies;

(b) Identify ways in which providing housing with appropriate services can contribute to cost savings for state agencies;

(c) Identify policies and actions that may contribute to homelessness or interfere with its reduction;

(d) Review and improve strategies for discharge from state institutions that contribute to homelessness;

(e) Recommend policies to either improve practices or align resources, or both, including those policies requested by the affordable housing advisory board or through state and local housing plans; and

(f) Ensure that the housing status of people served by state programs is collected in consistent formats available for analysis.



**Sec. 8.** RCW 43.63A.655 and 1999 c 267 s 4 are each amended to read as follows:

(1) In order to improve services for the homeless, the department, within amounts appropriated by the legislature for this specific purpose, shall implement ~~((a))~~ the Washington homeless client management information system for the ongoing collection and ~~((analysis of))~~ updates of information about all homeless individuals in the state.

(2) Information about homeless individuals for the Washington homeless client management information system shall come from the Washington homeless census and from state agencies and community organizations providing services to homeless individuals and families. Personally identifying information about homeless individuals for the Washington homeless client management system may only be collected after having obtained informed, reasonably time limited written consent from the homeless individual to whom the information relates. Data collection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals be informed about the expected duration of their participation, an explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information, an explanation regarding whom to contact in the event of injury to the individual related to the homeless client survey, a description of any reasonably foreseeable risks to the homeless individual, and a statement describing the extent to which confidentiality of records identifying the individual will be maintained.

(3) The Washington homeless client management information system shall serve as an online information and referral system to enable local governments and providers to connect homeless persons in the data base with available housing and other support services. Local governments shall develop a capacity for continuous case management, including independent living plans, when appropriate, to assist homeless persons.

(4) The information in the Washington homeless client management information system will also provide the department with the information to consolidate and analyze data about the extent and nature of homelessness in Washington state, giving emphasis to information about the extent and nature of homelessness in Washington state among families with children.

(5) The system may be merged with other data gathering and reporting systems and shall:

(a) Protect the right of privacy of individuals;

(b) Provide for consultation and collaboration with all relevant state agencies including the department of social and health services, experts, and community organizations involved in the delivery of services to homeless persons; and

(c) Include related information held or gathered by other state agencies.

~~((2))~~ (6) Within amounts appropriated by the legislature, for this specific purpose, the department shall evaluate the information gathered and disseminate the analysis and the evaluation broadly, using appropriate computer networks as well as written reports.

(7) The Washington homeless client management information system shall be implemented by December 31, 2009, and updated with new homeless client information at least annually.

***\*NEW SECTION. Sec. 9. (1) The department of community, trade, and economic development shall conduct a study to evaluate the potential development of a voluntary statewide, low-income household housing waiting list data base that would include information on all low-income households requesting housing assistance for the purpose of connecting such households with appropriate housing opportunities. The study shall investigate and evaluate the following:***

- (a) The anticipated benefits of such a statewide waiting list to low-income households and low-income housing providers;*
- (b) The cost of implementing and maintaining the data base; and*
- (c) Best practices from other states or from counties in other states that currently have a similar data base.*

*The department shall report the results of this study to the appropriate committees of the legislature by December 31, 2007.*

*(2) This section expires December 31, 2007.*

*\*Sec. 9 was vetoed. See message at end of chapter.*

***\*NEW SECTION. Sec. 10. A new section is added to chapter 43.185A RCW to read as follows:***

*(1) The department shall create or purchase, and implement by December 31, 2009, a master affordable housing data base that includes specific information about existing affordable rental housing stock in the state of Washington. The data base shall be maintained and continually updated by the department, and the department may cross-reference and exchange information between this data base and other existing state housing data bases.*

*(2) The data base shall include information on all rental units that meet the affordable housing definition and have received or continue to receive funding from the federal, state, or local government, or other nonprofit organization or financing through the Washington housing finance commission. The department shall encourage private landlords to voluntarily submit information about private rental units that are affordable for low-income households to be included in the data base.*

*(3) The data base shall include information about rental units that shall be determined by the department. However, the data base must include, at a minimum, measures for quality, cost, safety, and size.*

*(4) Other state agencies, local governments, local public agencies, including water and sewer districts, housing authorities, and other housing organizations shall cooperate with the department to create and update the affordable housing data base by providing to the department any requested existing information about rental housing units within the jurisdiction.*

*(5) The data base shall be searchable by the department, local governments, community housing organizations, including housing authorities, and the public according to housing characteristics determined by the department including, at a minimum, location, cost, and size. The data base will be utilized for data collection about Washington's affordable rental housing stock and will also serve as a low-income housing referral system to*

*connect low-income households seeking housing with appropriate and available units.*

\*Sec. 10 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 11.** A new section is added to chapter 43.185A RCW to read as follows:

The department, the housing finance commission, the affordable housing advisory board, and all local governments, housing authorities, and other nonprofits receiving state housing funds or financing through the housing finance commission shall, by December 31, 2006, and annually thereafter, review current housing reporting requirements related to housing programs and services and give recommendations to streamline and simplify all planning and reporting requirements to the department of community, trade, and economic development, which will compile and present the recommendations annually to the legislature. The entities listed in this section shall also give recommendations for additional legislative actions that could promote affordable housing and end homelessness.

NEW SECTION. **Sec. 12.** A new section is added to chapter 35.82 RCW to read as follows:

A joint housing authority may be dissolved pursuant to substantially identical resolutions or ordinances of the legislative authority of each of the counties or cities that previously authorized that joint housing authority. These resolutions or ordinances may authorize the execution of an agreement among the counties, cities, and the joint housing authority that provides for the timing, distribution of assets, obligations and liabilities, and other matters deemed necessary or appropriate by the legislative authorities.

(2) Each resolution or ordinance dissolving a joint housing authority shall provide for the following:

(a) Activation or reactivation of a housing authority or joint housing authority by each of the cities and counties that previously authorized the joint housing authority and any additional cities or counties that are then to be added. This activation or reactivation takes effect upon the dissolution of the joint housing authority or at an earlier time provided in the resolutions or ordinances dissolving the joint housing authority; and

(b) Distribution of all assets, obligations, and liabilities of the joint housing authority to the housing authorities activated or reactivated under (a) of this subsection. Distribution of assets, obligations, and liabilities may be based on any, or a combination of any of, the following considerations:

(i) The population within the boundaries of each of the housing authorities activated or reactivated under (a) of this subsection;

(ii) The number of housing units owned by the joint housing authority within the boundaries of each of the housing authorities activated or reactivated under (a) of this subsection;

(iii) The number of low-income residents within the boundaries of each of the housing authorities activated or reactivated under (a) of this subsection;

(iv) The effect of the proposed distribution on the viability of the housing authorities activated or reactivated under (a) of this subsection; or

(v) Any other reasonable criteria to determine the distribution of assets, obligations, and liabilities.

(3) Each activated or reactivated housing authority shall be responsible for debt service on bonds or other obligations issued or incurred to finance the acquisition, construction, or improvement of the projects, properties, and other assets that have been distributed to them under the dissolution. However, if an outstanding bond issue is secured in whole or in part by the general revenues of the joint housing authority being dissolved, each housing authority activated or reactivated under subsection (2)(a) of this section shall remain jointly and severally liable for retirement of debt service through repayment of those outstanding bonds and other obligations of the joint housing authority until paid or defeased, from general revenues of each of the activated or reactivated housing authorities, and from any other revenues and accounts that had been expressly pledged by the joint housing authority to the payment of those bonds or other obligations. As used in this subsection, "general revenues" means all revenues of a housing authority from any source, but only to the extent that those revenues are available to pay debt service on bonds or other obligations and are not then or thereafter pledged or restricted by law, regulation, contract, covenant, resolution, deed of trust, or otherwise, solely to another particular purpose.

**NEW SECTION. Sec. 13.** RCW 43.63A.655 is recodified as a section in chapter 43.185C RCW.

**\*NEW SECTION. Sec. 14.** *If specific funding is not transferred from the general fund to the Washington housing trust fund for the purposes of this act, referencing this act by bill or chapter number, by June 30, 2006, in the omnibus appropriations act, this act is null and void.*

\*Sec. 14 was vetoed. See message at end of chapter.

Passed by the House March 6, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 30, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 9, 10 and 14, Engrossed Second Substitute House Bill No. 2418 entitled:

"AN ACT Relating to affordable housing."

The Department of Community, Trade, and Economic Development (CTED) is required in Section 9 of the bill to conduct a study to evaluate the potential development of a voluntary statewide, low-income housing waiting list database. The database would include information on all low-income households requesting housing assistance, for the purpose of connecting such households with appropriate housing opportunities. CTED is also required in Section 10 to create or purchase, and implement by December 31, 2009, a master affordable housing database that includes specific information about existing affordable rental housing stock in the state of Washington. The activities outlined in Sections 9 and 10 of the bill are likely to create funding pressures for future biennial budgets.

Section 14 requires specific funding to be transferred from the General Fund to the Washington Housing Trust Fund by June 30, 2006, or the Act will be null and void. However, the transfer authorized by the Legislature in the Operating Budget bill occurs after June 30, 2006.

As funding provided in the Operating Budget related to this bill is insufficient, CTED will not be able to implement all of the activities contemplated. Notwithstanding this, CTED should do all that it can with the funding available to achieve the objectives of this bill.

For these reasons, I have vetoed Sections 9, 10 and 14 of Engrossed Second Substitute House Bill No. 2418.

With the exception of Sections 9, 10 and 14, Engrossed Second Substitute House Bill No. 2418 is approved."

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## CHAPTER 350

[Substitute House Bill 2688]

### LEOFF RETIREMENT SYSTEM—ALLOWANCE

AN ACT Relating to the law enforcement officers' and fire fighters' retirement system plan 1; amending RCW 41.26.100; creating a new section; providing an effective date; and providing an expiration date.

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

**Sec. 1.** RCW 41.26.100 and 1991 c 343 s 16 are each amended to read as follows:

A member upon retirement for service shall receive a monthly retirement allowance computed according to his or her completed creditable service credit years of service as follows: Five years but under ten years, one-twelfth of one percent of his or her final average salary for each month of service; ten years but under twenty years, one-twelfth of one and one-half percent of his or her final average salary for each month of service; and twenty years and over one-twelfth of two percent of his or her final average salary for each month of service: PROVIDED, That the recipient of a retirement allowance who shall return to service as a law enforcement officer or fire fighter shall be considered to have terminated his or her retirement status and he or she shall immediately become a member of the retirement system with the status of membership he or she had as of the date of retirement. Retirement benefits shall be suspended during the period of his or her return to service and he or she shall make contributions and receive service credit. Such a member shall have the right to again retire at any time and his or her retirement allowance shall be recomputed, and paid, based upon additional service rendered and any change in final average salary(~~(= PROVIDED FURTHER, That no retirement allowance paid pursuant to this section shall exceed sixty percent of final average salary, except as such allowance may be increased by virtue of RCW 41.26.240, as now or hereafter amended))~~).

**\*NEW SECTION. Sec. 2.** (1) *The governor shall establish a joint executive task force on funding postretirement medical benefits for members of plan 1 of the law enforcement officers' and fire fighters' retirement system. The joint task force shall consist of seven members: The director of the department of retirement systems; the administrator of the health care authority; the state actuary; one representative of Washington cities, appointed by the governor; one representative of Washington counties, appointed by the governor; one active member of plan 1 of the law enforcement officers' and fire fighters' retirement system, appointed by the governor; and one retired member of plan 1 of the law enforcement officers' and fire fighters' retirement system, appointed by the governor.*

(2) *The joint task force shall elect one of its members to serve as chair of the joint task force.*

*(3) Joint task force members may be reimbursed for travel expenses as authorized under RCW 43.03.050 and 43.03.060.*

*(4) It is the intent of the legislature to create a funding vehicle to assist employers in providing postretirement medical benefits for members of plan 1 of the law enforcement officers' and fire fighters' retirement system. To that end, the joint task force is charged with reviewing private and public funding vehicles that would accept voluntary tax-advantaged employer contributions and permissible transfers of excess pension assets. The task force shall select one or more appropriate funding vehicles and coordinate with all necessary parties to achieve implementation. To the extent that further legislative authority is required for the implementation, the task force shall make its recommendations for proposed legislation to the appropriate committees of the legislature by no later than September 1, 2006. The task force shall submit its final report to the governor and appropriate committees of the legislature by no later than December 1, 2006.*

*(5) The joint task force will evaluate the June 30, 2000, suspension of employer and member contributions in the law enforcement officers' and fire fighters' retirement system plan 1. The joint task force shall make its recommendations regarding employer and member contributions utilizing the most recent valuation study for the plan.*

*(6) This section expires December 1, 2006.*

\*Sec. 2 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 3.** Section 1 of this act takes effect July 1, 2006.

Passed by the House March 8, 2006.

Passed by the Senate March 8, 2006.

Approved by the Governor March 30, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 2, Substitute House Bill No. 2688 entitled:

"AN ACT Relating to the law enforcement officers' and fire fighters' retirement system plan 1."

Local governments face challenges in providing health care benefits for retired members of the Law Enforcement Officers' and Firefighters' Retirement System Plan 1 (LEOFF 1). The cost of these benefits can be significant, especially for smaller jurisdictions. It is sensible for the state to assist local governments in their search for ways to address this obligation in the most efficient way possible. However, a thorough and careful review of options will take longer than provided in the bill, and will need to include a broader range of possibilities. The bill also charges a task force to study the use of excess pension assets to provide health care coverage. Notwithstanding potential legal barriers to this use of pension assets, the current financial situation of the LEOFF 1 pension plan clearly does not support this option.

While I am vetoing Section 2, I am directing the Department of Retirement Systems and the Health Care Authority to lay the groundwork for study of this issue, and to consult plan members and representatives of local governments in their work.

For these reasons, I have vetoed Section 2 Substitute House Bill No. 2688

With the exception of Section 2, Substitute House Bill No. 2688 is approved."

**CHAPTER 351**

[Substitute House Bill 2933]

## LEOFF RETIREMENT SYSTEM—DEATH BENEFITS

AN ACT Relating to death benefit payments for law enforcement officers' and fire fighters' retirement system, plan 2; and amending RCW 41.26.048.

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

**Sec. 1.** RCW 41.26.048 and 1996 c 226 s 1 are each amended to read as follows:

(1) A one hundred fifty thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) The benefit under this section shall be paid only (~~where~~) when death occurs: (a) As a result of injuries sustained in the course of employment; or (b) to a member of plan 2 as a result of an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

Passed by the House February 11, 2006.

Passed by the Senate March 7, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

**CHAPTER 352**

[Substitute Senate Bill 6618]

## WASHINGTON ASSESSMENT OF STUDENT LEARNING—STUDY

AN ACT Relating to the high school assessment system; and creating new sections.

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

NEW SECTION. **Sec. 1.** In 1993 the Washington legislature laid out a vision of a revitalized school system in Washington state. Envisioned was a comprehensive assessment system committed to high academic standards for all of its students. The Washington assessment of student learning was created as a tool to measure whether students were reaching the high academic standards. The legislature continues to support this assessment as a part of a comprehensive assessment system. Recently some alternative assessments have been developed. The legislature finds that there is interest in exploring why some students have not been able to meet the state standards and whether additional alternative methods, options, procedures, or performance measures could be used to augment the current system.

NEW SECTION. Sec. 2. (1) The Washington state institute for public policy shall conduct a study to explore options to augment the current system of assessments to provide additional opportunities for students to demonstrate that they have met the state learning standards. The study is limited to:

(a) A review and statistical analysis of Washington assessment of student learning data to increase understanding of the students who did not meet the standard in one or more areas of assessment, identify the characteristics of those students, and identify possible barriers to student success or possible causes of the lack of success;

(b) A review and identification of additional alternative assessment options that could be used to augment the current assessment system. In identifying the alternative assessment options, the institute shall include a review of alternative assessments used in other states as well as those that have been developed and those that have been proposed in Washington. The institute shall examine the use of national tests as well as career skill certification exams in their review of possible alternative assessment options. For each of the identified alternative assessment options, the study shall at a minimum include:

(i) An estimation of the costs for implementation;

(ii) A review of the cultural appropriateness;

(iii) Whether the alternative assessment reliably measures a student's ability to meet state learning standards in one or more of the required content areas;

(iv) Whether the alternative assessment is in compliance with RCW 28A.655.061(1); and

(v) Any challenges to implementation for each of the identified alternative assessment options, including any legislative action necessary for implementation;

(c) A review and identification of additional alternative methods, procedures, or combinations of performance measures, including those proposed in Washington, to assess whether students have met the state learning standards. For each of the identified alternative methods, procedures, or performance measures, the study shall at a minimum include:

(i) An estimation of the costs for implementation;

(ii) A review of the cultural appropriateness;

(iii) Whether the method, procedure, or performance measure reliably measures a student's ability to meet state learning standards in one or more of the required content areas;

(iv) Whether the method, procedure, or performance measure is in compliance with RCW 28A.655.061(1);

(v) Any challenges to implementation for each of the identified methods, procedures, or performance measures, including any legislative action necessary for implementation; and

(vi) Whether the procedures or methods could be standardized across the state.

(2) The Washington state institute for public policy shall provide an interim report to the legislature by December 1, 2006, and a final report by December 1, 2007. The interim report shall include a preliminary statistical analysis of the information required under subsection (1)(a) of this section and shall include recommendations on at least two alternative assessment options, alternative methods, procedures, or performance measures that were reviewed under



subsection (1)(b) and (c) of this section. The final study shall include suggestions for any follow-up studies that the legislature could undertake to continue to build on the information obtained in this study.

(3) The institute shall consult, at a minimum, with nationally recognized experts on assessments including representatives from nationally recognized centers for multicultural education, representatives of the office of the superintendent of public instruction, educators, counselors, parents, the business community, classified employees, career and technical organizations, representatives of federally recognized Washington tribes, representatives of cultural, linguistic, and racial minority groups, and the community of persons with disabilities in developing the initial list of possible alternative assessment options, alternative assessment methods, procedures, or performance measures to be reviewed under subsection (1)(b) and (c) of this section.

(4) The office of the superintendent of public instruction and school districts shall provide the institute with access to all necessary data to conduct the studies in this act.

**NEW SECTION. Sec. 3.** This act shall be known as the Governor Booth Gardner Act.

Passed by the Senate March 7, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

### CHAPTER 353

[Second Substitute House Bill 3115]

#### FOSTER PARENT CRITICAL SUPPORT AND RETENTION PROGRAM

AN ACT Relating to establishing a foster parent critical support and retention program; amending RCW 74.13.280; adding new sections to chapter 74.13 RCW; and creating new sections.

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

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

(1) Foster parents are able to successfully maintain placements of sexually reactive children, physically assaultive children, or children with other high-risk behaviors when they are provided with proper training and support. Lack of support contributes to placement disruptions and multiple moves between foster homes.

(2) Young children who have experienced repeated early abuse and trauma are at high risk for behavior later in life that is sexually deviant, if left untreated. Placement with a well-trained, prepared, and supported foster family can break this cycle.

**NEW SECTION. Sec. 2.** A new section is added to chapter 74.13 RCW to read as follows:

A foster parent critical support and retention program is established to retain foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors. Services shall consist of short-term therapeutic and educational interventions to support the stability of the placement. The foster parent critical support and retention program is to be implemented under the division of children and family services' contract and

supervision. A contractor must demonstrate experience providing in-home case management, as well as experience working with caregivers of children with significant behavioral issues that pose a threat to others or themselves or the stability of the placement.

**NEW SECTION. Sec. 3.** A new section is added to chapter 74.13 RCW to read as follows:

Under the foster parent critical support and retention program, foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors shall receive:

- (1) Availability at any time of the day or night to address specific concerns related to the identified child;
- (2) Assessment of risk and development of a safety and supervision plan;
- (3) Home-based foster parent training utilizing evidence-based models; and
- (4) Referral to relevant community services and training provided by the local children's administration office or community agencies.

**NEW SECTION. Sec. 4.** The department of social and health services shall prepare and provide to the legislature, by December 1, 2006, a comprehensive report regarding the department's policies and practices relating to referrals, investigations, and records of child abuse and neglect allegations. At a minimum, the report shall include recommendations for improvement of the department's current practice to:

- (1) Define terms relating to referrals and investigative findings;
- (2) Provide guidelines for determining whether a referral is to be assigned and investigated;
- (3) Manage records of calls which are received but not investigated;
- (4) Establish a timeline for the destruction of records regarding investigations which resulted in no investigation, an inconclusive finding, or an unfounded finding;
- (5) Disclose to foster parents information regarding sexually reactive and physically aggressive tendencies of children placed in their homes;
- (6) Respond to allegations of abuse, neglect, or failure to supervise against foster parents when the allegations arise from the conduct of a child who is sexually reactive or has physically aggressive tendencies and the foster parent did not have prior knowledge of those tendencies or the child was not in the reasonable control of the foster parent; and
- (7) Protect the due process rights of individuals who are not afforded the protection of the child abuse and prevention and treatment act.

**\*Sec. 5. RCW 74.13.280 and 2001 c 318 s 3 are each amended to read as follows:**

***(1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a child-placing agency, the department or agency shall share information about the child and the child's family with the care provider and shall consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.***

**(2) Information about the child shall include information about behavioral and emotional problems of the child and whether the child is a sexually reactive child.**

**(3) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law.**

**~~((3))~~ (4) Disclosure of any relevant health care information shall be consistent with RCW 70.24.105 and any guidelines or recommendations established by the department of health concerning disclosure of such information, including testing for and disclosure of information related to blood-borne pathogens.**

**(5) Nothing in this section shall be construed to limit the authority of the department or child-placing agencies to disclose client information or to maintain client confidentiality as provided by law.**

\*Sec. 5 was vetoed. See message at end of chapter.

Passed by the House March 8, 2006.

Passed by the Senate March 7, 2006.

Approved by the Governor March 30, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 5, Second Substitute House Bill No. 3115 entitled:

"AN ACT Relating to establishing a foster parent critical support and retention program."

Section 5 of the bill creates a statutory duty for the Department of Social and Health Services (DSHS) to disclose information to care providers regarding a dependent child's behavioral and emotional problems or regarding whether a dependent child is "sexually reactive." The duty to share this information is not limited to only that information known to the DSHS. Moreover, the term "sexually reactive" is not defined in this bill or in existing statutes. The lack of clarity regarding what specific information is to be shared and the absence of a key definition might result in misunderstandings between the DSHS and care providers. This, in turn, might result in inadequate supervision of children or unnecessary litigation.

I am directing the DSHS, however, to develop policies to implement the intent of Section 5. The DSHS policies are to specify what types of information must be shared with care providers, when the information is to be shared, and the manner in which the information is to be shared. The policies should include definitions of key terms. The DSHS' duty to share information should not be limited to only that information known at the time of placement. Rather, the DSHS should share information, consistent with the criteria outlined in policy, on an on-going basis.

For these reasons, I have vetoed Section 5 of Second Substitute House Bill No. 3115.

With the exception of Section 5, Second Substitute House Bill No. 3115 is approved."

## CHAPTER 354

[Engrossed House Bill 3159]

### EXCISE TAXATION—FOOD PRODUCTS

AN ACT Relating to the excise taxation of food products; amending RCW 82.04.4266, 82.32.610, 82.74.010, 82.74.030, 82.74.040, 82.74.050, 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.32.600, and 82.32.590; reenacting and amending RCW 82.04.260; adding new sections to chapter 82.04 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; providing effective dates; and providing expiration dates.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter shall not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing dairy products; or

(b) Selling manufactured dairy products to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) "Dairy products" means dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein.

(3) This section expires July 1, 2012.

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

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or

(b) Selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) This section expires July 1, 2012.

**Sec. 3.** RCW 82.04.4266 and 2005 c 513 s 1 are each amended to read as follows:

(1) This chapter shall not apply to ~~((amounts received from))~~ the value of products or the gross proceeds of sales derived from:

~~((1))~~ (a) Manufacturing fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits ~~((and))~~ or vegetables; or

~~((2))~~ (b) Selling at wholesale ~~((fresh))~~ fruits ~~((and))~~ or vegetables ~~((canned, preserved, frozen, processed, or dehydrated))~~ manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. ~~((As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record.))~~ A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) This section expires July 1, 2012.

**Sec. 4.** RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are each reenacted and amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent;

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. ~~((As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record))~~ Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d) Beginning July 1, 2012, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

~~((e))~~ (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

~~((e))~~ (f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to

such business shall be equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons

the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(c) For the purposes of this subsection (11), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (11) must report as required under RCW 82.32.545.

(e) This subsection (11) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under RCW 82.32.550.

(12) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

**Sec. 5.** RCW 82.32.610 and 2005 c 513 s 3 are each amended to read as follows:

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

(2) Each person claiming a tax exemption under RCW 82.04.4266, section 1 of this act, or section 2 of this act shall report information to the department by filing a complete annual survey. The survey is due by March 31st of the year following any calendar year in which a tax exemption under RCW 82.04.4266, section 1 of this act, or section 2 of this act is taken. The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590. The survey shall include the amount of tax exemption taken. The survey shall also include the following information for employment positions in Washington:

(a) The number of total employment positions;

(b) Full-time, part-time, and temporary employment positions as a percent of total employment;

(c) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(d) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

The first survey filed under this subsection shall also include information for the twelve-month period immediately before first use of a tax incentive.

(3) The department may request additional information necessary to measure the results of the exemption program, to be submitted at the same time as the survey.

(4) All information collected under this section, except the amount of the tax exemption taken, is deemed taxpayer information under RCW 82.32.330. Information on the amount of tax exemption taken is not subject to the confidentiality provisions of RCW 82.32.330.

(5) If a person fails to submit an annual survey under subsection (2) of this section by the due date of the ~~((report))~~ survey or any extension under RCW 82.32.590, the department shall declare the amount of taxes exempted for the previous calendar year to be immediately due and payable. The department shall assess interest, but not penalties, on the amounts due under this section. The amount due shall be calculated using a rate of 0.138 percent. The interest shall be assessed at the rate provided for delinquent taxes under this chapter,



retroactively to the date the exemption was claimed, and shall accrue until the taxes for which the exemption was claimed are repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330.

(6) The department shall use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers shall be included in any category. The department shall report these statistics to the legislature each year by September 1st.

(7) The department shall study the tax exemption authorized in RCW 82.04.4266, section 1 of this act, and section 2 of this act. The department shall submit a report to the finance committee of the house of representatives and the ways and means committee of the senate by December 1, 2011. The report shall measure the effect of the exemption on job creation, job retention, company growth, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

**Sec. 6.** RCW 82.74.010 and 2005 c 513 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Cold storage warehouse" means a storage warehouse ~~((used))~~ owned or operated by a wholesaler or third-party warehouse as those terms are defined in RCW 82.08.820 to store fresh and/or frozen perishable fruits or vegetables, dairy products, seafood products, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

(3) "Dairy product" means dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein.

(4) "Dairy product manufacturing" means manufacturing, as defined in RCW 82.04.120, of dairy products.

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

~~((4))~~ (6) "Eligible investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project. The lessor or owner of a qualified building is not eligible for a deferral unless (a) the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or (b)(i) the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments, and (ii) the lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey under RCW 82.74.040. The economic benefit of the deferral to the lessee may be evidenced by any type of payment, credit, or any other financial arrangement between the lessor or owner of the qualified building and the lessee.

~~((5))~~ (7) "Fresh fruit and vegetable processing" means manufacturing as defined in RCW 82.04.120 which consists of the canning, preserving, freezing, processing, or dehydrating fresh fruits and/or vegetables.

~~((6))~~ (8)(a) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(i) Construction of the qualified building, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(ii) Construction of the qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection ~~((4))~~ (6) of this section; or

(iii) Tenant improvements for a qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection ~~((4))~~ (6) of this section.

(b) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(c) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

~~((7))~~ (9) "Person" has the meaning given in RCW 82.04.030.

~~((8))~~ (10) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage ~~((warehouse))~~ warehousing, and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, plant, or laboratory used for fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development. If a building is used partly for fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

~~((9))~~ (11) "Qualified machinery and equipment" means all industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehouse, or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

~~((10))~~ (12) "Recipient" means a person receiving a tax deferral under this chapter.

~~((11))~~ (13) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process related to fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, or cold storage warehousing before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross

receipts from such sales of the product, service, or process do not exceed one million dollars.

(14) "Seafood product" means any edible marine fish and shellfish that remains in a raw, raw frozen, or raw salted state.

(15) "Seafood product manufacturing" means the manufacturing, as defined in RCW 82.04.120, of seafood products.

**Sec. 7.** RCW 82.74.030 and 2005 c 513 s 6 are each amended to read as follows:

(1) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes ~~((due))~~ imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project if the investment project is undertaken for the purpose of fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development.

(2) This section expires July 1, 2012.

**Sec. 8.** RCW 82.74.040 and 2005 c 513 s 7 are each amended to read as follows:

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

(b) Each recipient of a deferral granted under this chapter shall complete an annual survey. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010~~((4))~~ (6), the lessee shall complete the annual survey and the applicant is not required to complete the annual survey. The survey is due by March 31st of the year following the calendar year in which the investment project is certified by the department as having been operationally complete and each of the seven succeeding calendar years. The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590. The survey shall include the amount of tax deferred. The survey shall also include the following information for employment positions in Washington:

(i) The number of total employment positions;

(ii) Full-time, part-time, and temporary employment positions as a percent of total employment;

(iii) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

(c) The department may request additional information necessary to measure the results of the deferral program, to be submitted at the same time as the survey.

(d) All information collected under this subsection, except the amount of the tax deferral taken, is deemed taxpayer information under RCW 82.32.330. Information on the amount of tax deferral taken is not subject to the

confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(e) The department shall use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers shall be included in any category. The department shall report these statistics to the legislature each year by September 1st.

(f) The department shall also use the information to study the tax deferral program authorized under this chapter. The department shall report to the legislature by December 1, 2011. The report shall measure the effect of the program on job creation, ~~((the number of jobs created for residents of eligible areas,))~~ company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

(2)(a) If a recipient of the deferral fails to complete the annual survey required under subsection (1) of this section by the date due or any extension under RCW 82.32.590, twelve and one-half percent of the deferred tax shall be immediately due. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010~~((4))~~ (6), the lessee shall be responsible for payment to the extent the lessee has received the economic benefit. The department shall assess interest, but not penalties, on the amounts due under this section. The interest shall be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, and shall accrue until the amounts due are repaid.

(b) A recipient who must repay deferred taxes under RCW 82.74.050(2) because the department has found that an investment project is used for purposes other than fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development is no longer required to file annual surveys under this section beginning on the date an investment project is used for nonqualifying purposes.

**Sec. 9.** RCW 82.74.050 and 2005 c 513 s 8 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, taxes deferred under this chapter need not be repaid.

(2) If, on the basis of survey under RCW 82.74.040 or other information, the department finds that an investment project is used for purposes other than fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development at any time during the calendar year in which the investment project is certified by the department as having been operationally completed, or at any time during any of the seven succeeding calendar years, a portion of deferred taxes shall be immediately due according to the following schedule:

Year in which <u>nonqualifying</u> use occurs	% of deferred taxes due
1	100%
2	87.5%
3	75%
4	62.5%

5	50%
6	37.5%
7	25%
8	12.5%

(3) The department shall assess interest, but not penalties, on the deferred taxes under subsection (2) of this section. The interest shall be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, retroactively to the date of deferral, and shall accrue until the deferred taxes are repaid. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

(4) Notwithstanding subsection (2) of this section, deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

**Sec. 10.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs, are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds at least two hundred thousand square feet of additional space to an existing warehouse or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(c) "Department" means the department of revenue;

(d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products

stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

(f) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

(h) "Person" has the meaning given in RCW 82.04.030;

(i) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

(j) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

(k) "Third-party warehouse" means a person taxable under RCW 82.04.280(4);

(l) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

(m) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

**Sec. 11.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs, are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Cold storage warehouse" (~~means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing~~) has the meaning provided in RCW 82.74.010;

(c) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds at least twenty-five thousand square feet of additional space to an existing cold storage warehouse, at least two hundred thousand square feet of additional space to an existing warehouse other than a cold storage warehouse, or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(d) "Department" means the department of revenue;

(e) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(f) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

(g) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(h) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

(i) "Person" has the meaning given in RCW 82.04.030;

(j) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;



(k) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

(l) "Third-party warehouse" means a person taxable under RCW 82.04.280(4);

(m) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

(n) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more, other than cold storage warehouses, and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ~~((82.61,))~~ 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

**Sec. 12.** RCW 82.08.820 and 2005 c 513 s 11 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs, are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

~~(b) ("Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing;~~

~~(e))~~ "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds ~~((at least twenty-five thousand square feet of additional space to an existing cold storage warehouse,))~~ at least two hundred thousand square feet of additional space to an existing warehouse ~~((other than a cold storage warehouse,))~~ or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

~~((c))~~ (c) "Department" means the department of revenue;

~~((e))~~ (d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

~~((f))~~ (e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage

takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

~~((g))~~ (f) "Grain elevator" means a structure used for storage and handling of grain in bulk;

~~((h))~~ (g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

~~((i))~~ (h) "Person" has the meaning given in RCW 82.04.030;

~~((j))~~ (i) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

~~((k))~~ (j) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

~~((l))~~ (k) "Third-party warehouse" means a person taxable under RCW 82.04.280(4);

~~((m))~~ (l) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

~~((n))~~ (m) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more ~~((, other than cold storage warehouses,))~~ and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. ~~((For cold storage warehouses with square footage of twenty five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.))~~

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ~~((82.61,))~~ 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

**Sec. 13.** RCW 82.12.820 and 2005 c 513 s 12 are each amended to read as follows:

(1) Wholesalers or third-party warehouse owners who own or operate warehouses or grain elevators, and retailers who own or operate distribution centers, and who have paid the tax levied under RCW 82.12.020 on:

(a) Material-handling equipment and racking equipment and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Materials incorporated in the construction of a warehouse or grain elevator, are eligible for an exemption on tax paid in the form of a remittance or credit against tax owed. The amount of the remittance or credit is computed under subsection (2) of this section and is based on the state share of use tax.

(2)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.12.020 to the department. The person may then apply to the department for remittance of all or part of the tax paid under RCW 82.12.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more (~~(, other than cold storage warehouses,)~~) and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction materials, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment. (~~(For cold storage warehouses with square footage of twenty five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.)~~)

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses, if applicable; and construction invoices and documents.

(c) The department shall on a quarterly basis remit or credit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(3) Warehouse, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, (~~(82.61,)~~) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Materials incorporated in warehouses and grain elevators upon which construction was initiated prior to May 20, 1997, are not eligible for a remittance under this section.

(4) The lessor or owner of the warehouse or grain elevator is not eligible for a remittance or credit under this section unless the underlying ownership of the warehouse or grain elevator and material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written

contract agrees to pass the economic benefit of the exemption to the lessee in the form of reduced rent payments.

(5) The definitions in RCW 82.08.820 apply to this section.

**\*NEW SECTION. Sec. 14.** *A new section is added to chapter 82.08 RCW to read as follows:*

*(1) The tax levied by RCW 82.08.020 does not apply to sales to persons who are subject to tax under RCW 82.04.260(12) of: (a) Materials used to package canned salmon including, but not limited to, clear wrap, boxes, tape, and box labels; and (b) glue, ink, or similar tangible personal property, that: (i) Affixes the label to the labeled product; or (ii) becomes a component of the label.*

*(2) The exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.*

\*Sec. 14 was vetoed. See message at end of chapter.

**\*NEW SECTION. Sec. 15.** *A new section is added to chapter 82.12 RCW to read as follows:*

*The provisions of this chapter do not apply with respect to the use by persons who are subject to tax under RCW 82.04.260(12) of: (1) Materials used to package canned salmon including, but not limited to, clear wrap, boxes, tape, and box labels; and (2) glue, ink, or similar tangible personal property, that: (a) Affixes the label to the labeled product; or (b) becomes a component of the label.*

\*Sec. 15 was vetoed. See message at end of chapter.

**Sec. 16.** RCW 82.32.600 and 2005 c 514 s 1002 are each amended to read as follows:

(1) Persons required to file surveys under RCW 82.04.4452, 82.32.610, or 82.74.040 must electronically file with the department all surveys, returns, and any other forms or information the department requires in an electronic format as provided or approved by the department (~~(, unless the department grants relief under subsection (2) of this section)~~). As used in this section, "returns" has the same meaning as "return" in RCW 82.32.050.

~~(2) ((Upon request, the department may relieve a person of the obligations in subsection (1) of this section if the person's taxes have been reduced a cumulative total of less than one thousand dollars from all of the credits, exemptions, or preferential business and occupation tax rates, for which a person is required to file an annual survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570, 82.32.560, 82.60.070, or 82.63.020.~~

~~(3) Persons who no longer qualify for relief under subsection (2) of this section will be notified in writing by the department and must comply with subsection (1) of this section by the date provided in the notice.~~

~~(4)) Any survey, return, or any other form or information required to be filed in an electronic format under subsection (1) of this section is not filed until received by the department in an electronic format.~~

(3) The department may waive the electronic filing requirement in subsection (1) of this section for good cause shown.

**Sec. 17.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to read as follows:

(1) If the department finds that the failure of a taxpayer to file an annual survey under RCW 82.04.4452, 82.32.610, or 82.74.040 by the due date was the result of circumstances beyond the control of the taxpayer, the department shall extend the time for filing the survey. Such extension shall be for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

(2) In making a determination whether the failure of a taxpayer to file an annual survey by the due date was the result of circumstances beyond the control of the taxpayer, the department shall be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

**NEW SECTION. Sec. 18.** (1) Except as otherwise provided in this section, this act takes effect July 1, 2006.

(2) Sections 6 through 9 and 11 of this act take effect July 1, 2007.

(3) Sections 12 and 13 of this act take effect July 1, 2012.

**NEW SECTION. Sec. 19.** Section 10 of this act expires July 1, 2007.

**NEW SECTION. Sec. 20.** Section 11 of this act expires July 1, 2012.

Passed by the House March 8, 2006.

Passed by the Senate March 7, 2006.

Approved by the Governor March 30, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 30, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 14 and 15, Engrossed House Bill No. 3159 entitled:

"AN ACT Relating to the excise taxation of food products."

Sections 14 and 15 of this bill provide a sales and use tax exemption on material used to package canned salmon. That material includes items that affix the label to the labeled product, or items that become a component of the label, such as clear wrap, boxes, tape, box labels, glue, and ink.

With the exception of materials used to pack fresh perishable horticultural products for farmers, custom packers are consumers of packing materials and the purchase or use of such materials is subject to the retail sales and use tax. Consequently, I am concerned with providing a sales and use tax exemption for packing materials used by persons subject to the preferential rate for canned salmon. Such persons are custom packers. Providing a limited exemption for these materials sets a precedent for other custom packers who desire similar sales and use tax exemptions.

The 2005 tax breaks for the fruit and vegetable processors were enacted to help an industry that was in obvious trouble and in need of temporary aid to help turn around the industry's fortunes. That legislation was not intended to create a template for getting tax breaks for other industries. Rather, it was intended to help a Washington industry in dire straits. Washington's seafood processing industry appears to be healthy and does not need this kind of help from the state.

For these reasons, I have vetoed Sections 14 and 15 of Engrossed House Bill No. 3159.

With the exception of Sections 14 and 15, Engrossed House Bill No. 3159 is approved."

## CHAPTER 355

[Substitute Senate Bill 5654]

## CRIMINAL JUSTICE OFFICIALS—PERSONAL INFORMATION

AN ACT Relating to the privacy of personal information of criminal justice officials; amending RCW 4.24.680 and 4.24.700; creating a new section; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** The legislature finds that the dissemination of personally identifying information as proscribed in RCW 4.24.680 is not in the public interest.

**Sec. 2.** RCW 4.24.680 and 2002 c 336 s 1 are each amended to read as follows:

~~((A person or organization shall not, with the intent to harm or intimidate, sell, trade, give, publish, distribute, or otherwise release the residential address, residential telephone number, birthdate, or social security number of any law enforcement related, corrections officer related, or court related employee or volunteer, or someone with a similar name, and categorize them as such, without the express written permission of the employee or volunteer unless specifically exempted by law or court order.))~~

(1) A person shall not knowingly make available on the world wide web the personal information of a peace officer, corrections person, justice, judge, commissioner, public defender, or prosecutor if the dissemination of the personal information poses an imminent and serious threat to the peace officer's, corrections person's, justice's, judge's, commissioner's, public defender's, or prosecutor's safety or the safety of that person's immediate family and the threat is reasonably apparent to the person making the information available on the world wide web to be serious and imminent.

(2) It is not a violation of this section if an employee of a county auditor or county assessor publishes personal information, in good faith, on the web site of the county auditor or county assessor in the ordinary course of carrying out public functions.

(3) For the purposes of this section:

(a) "Commissioner" means a commissioner of the superior court, court of appeals, or supreme court.

(b) "Corrections person" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those whose civil rights have been limited in some way by legal sanction.

(c) "Immediate family" means a peace officer's, corrections person's, justice's, judge's, commissioner's, public defender's, or prosecutor's spouse, child, or parent and any other adult who lives in the same residence as the person.

(d) "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate, the United States bankruptcy court, and the Washington court of appeals, superior court, district court, or municipal court.

(e) "Justice" means a justice of the United States supreme court or Washington supreme court.



(f) "Personal information" means a peace officer's, corrections person's, justice's, judge's, commissioner's, public defender's, or prosecutor's home address, home telephone number, pager number, social security number, home e-mail address, directions to the person's home, or photographs of the person's home or vehicle.

(g) "Prosecutor" means a county prosecuting attorney, a city attorney, the attorney general, or a United States attorney and their assistants or deputies.

(h) "Public defender" means a federal public defender, or other public defender, and his or her assistants or deputies.

**Sec. 3.** RCW 4.24.700 and 2002 c 336 s 3 are each amended to read as follows:

~~((Any law enforcement related, corrections officer related, or court related employee or volunteer who suffers damages as a result of a person or organization selling, trading, giving, publishing, distributing, or otherwise releasing the residential address, residential telephone number, birthdate, or social security number of the employee or volunteer in violation of RCW 4.24.680 may bring an action against the person or organization in court for actual damages sustained, plus attorneys' fees and costs.))~~

Any person whose personal information is made available on the world wide web as described in RCW 4.24.680(1) who suffers damages as a result of such conduct may bring an action against the person or organization who makes such information available, for actual damages sustained plus damages in an amount not to exceed one thousand dollars for each day the personal information was made available on the world wide web, and reasonable attorneys' fees and costs.

**NEW SECTION. Sec. 4.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate March 7, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

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## CHAPTER 356

[Senate Bill 6059]

### STATE EMPLOYEES—POOLED SICK LEAVE

AN ACT Relating to sick leave pools for state employees; adding a new section to chapter 41.04 RCW; and providing an effective date.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 41.04 RCW to read as follows:

The department of personnel and other personnel authorities shall adopt rules or policies governing the accumulation and use of sick leave for state agency and department employees, expressly for the establishment of a plan allowing participating employees to pool sick leave and allowing any sick leave thus pooled to be used by any participating employee who has used all of the sick leave, annual leave, and compensatory leave that has been personally

accrued by him or her. Each department or agency of the state may allow employees to participate in a sick leave pool established by the department of personnel and other personnel authorities.

(1) For purposes of calculating maximum sick leave that may be donated or received by any one employee, pooled sick leave:

(a) Is counted and converted in the same manner as sick leave under the Washington state leave sharing program as provided in this chapter; and

(b) Does not create a right to sick leave in addition to the amount that may be donated or received under the Washington state leave sharing program as provided in this chapter.

(2) The department and other personnel authorities, except the personnel authorities for higher education institutions, shall adopt rules which provide:

(a) That employees are eligible to participate in the sick leave pool after one year of employment with the state or agency of the state if the employee has accrued a minimum amount of unused sick leave, to be established by rule;

(b) That participation in the sick leave pool shall, at all times, be voluntary on the part of the employees;

(c) That any sick leave pooled shall be removed from the personally accumulated sick leave balance of the employee contributing the leave;

(d) That any sick leave in the pool that is used by a participating employee may be used only for the employee's personal illness, accident, or injury;

(e) That a participating employee is not eligible to use sick leave accumulated in the pool until all of his or her personally accrued sick, annual, and compensatory leave has been used;

(f) A maximum number of days of sick leave in the pool that any one employee may use;

(g) That a participating employee who uses sick leave from the pool is not required to recontribute such sick leave to the pool, except as otherwise provided in this section;

(h) That an employee who cancels his or her membership in the sick leave pool is not eligible to withdraw the days of sick leave contributed by that employee to the pool;

(i) That an employee who transfers from one position in state government to another position in state government may transfer from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits;

(j) That alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as is determined by the agency head;

(k) That sick leave credits may be drawn from the sick leave pool by a part-time employee on a pro rata basis; and

(l) That each department or agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and is unused by employees, in accordance with guidelines established by the department of personnel.

(3) Personnel authorities for higher education institutions shall adopt policies consistent with the needs of the employees under their respective jurisdictions.

NEW SECTION. Sec. 2. This act takes effect July 1, 2007.

Passed by the Senate March 4, 2006.

Passed by the House March 2, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

## CHAPTER 357

[Substitute Senate Bill 6287]

### SPECIAL PARKING PRIVILEGES—PERSONS WHO ARE LEGALLY BLIND

AN ACT Relating to special parking privileges for legally blind persons; amending RCW 46.16.381; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature reaffirms its recognition that legal blindness does not affect the physical ability to walk, nor does it limit the ability to participate and contribute in employment and all aspects of life as an equal and productive citizen. Furthermore, for a legally blind individual with appropriate training in travel skills, any limitations on that individual's mobility are not resolved by the granting of special parking privileges. However, for some individuals, including the newly blind and those in transition, the availability of special parking privileges could prove to be an appropriate benefit if those individuals choose to avail themselves of the opportunity.

Sec. 2. RCW 46.16.381 and 2005 c 390 s 2 are each amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk and meets one of the following criteria, as determined by a licensed physician or an advanced registered nurse practitioner licensed under chapter 18.79 RCW:

- (a) Cannot walk two hundred feet without stopping to rest;
- (b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;
- (c) ~~((Is so severely disabled))~~ Has such a severe disability, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;
- (d) Uses portable oxygen;
- (e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
- (f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association; ~~((or))~~
- (g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician or advanced registered nurse practitioner of the applicant shall document that the disability is comparable in severity to the others listed in this subsection; or
- (h) Is legally blind and has limited mobility.

(2) The applications for parking permits for persons with disabilities and parking permits for persons with temporary disabilities are official state

documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's or advanced registered nurse practitioner's signature and immediately below the applicant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility (RCW 46.16.381). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued ~~((no later than January 1, 2000,))~~ to all persons who are issued parking placards, including those issued for temporary disabilities, and special parking license plates for persons with disabilities. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the person with disabilities. Instead of regular motor vehicle license plates, persons with disabilities are entitled to receive special license plates under this section or RCW 46.16.385 bearing the international symbol of access for one vehicle registered in the name of the person with disabilities. Persons with disabilities who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the placard or special license plates issued under this section or RCW 46.16.385 may park in places reserved for persons with physical disabilities. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as cabulances that regularly transport persons with disabilities who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding home, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) Whenever the person with disabilities transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the person with disabilities and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate.

If another vehicle is not acquired by the person with disabilities, the removed plate shall be immediately surrendered to the director.

(5) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the person's physician. The permanent parking placard and identification card of a person with disabilities shall be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. In the event of the permit holder's death, the parking placard and identification card must be immediately surrendered to the department. The department shall match and purge its data base of parking permits issued to persons with disabilities with available death record information at least every twelve months.

~~(6) ((Each person with disabilities who has been issued a permanent parking permit on or before July 1, 1998, must renew the permit no later than July 1, 2003, subject to a schedule to be set by the department, or the permit will expire.~~

~~(7))~~ Additional fees shall not be charged for the issuance of the special placards or the identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

~~((8))~~ (7) Any unauthorized use of the special placard, special license plate issued under this section or RCW 46.16.385, or identification card is a traffic infraction with a monetary penalty of two hundred fifty dollars.

~~((9))~~ (8) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. The clerk of the court shall report all violations related to this subsection to the department.

~~((10))~~ (9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this section or RCW 46.16.385. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this section or RCW 46.16.385 required under this section. A local jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this section or RCW 46.16.385. All time restrictions must be clearly posted.

~~((11))~~ (10) The penalties imposed under subsections (8) and (9) ~~((and (10)))~~ of this section shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to

reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

~~((12))~~ (11) Except as provided by subsection (2) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate issued under this section or RCW 46.16.385, placard, or identification card in a manner other than that established under this section.

~~((13))~~ (12)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

~~((14))~~ (13) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves persons having disabilities or disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

~~((15))~~ (14) The court may not suspend more than one-half of any fine imposed under subsection ~~((8))~~ (7), ~~((9))~~ (8), ~~((10))~~ (9), or ~~((12))~~ (11) of this section.

(15) For the purposes of this section, "legally blind" means a person who: (a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision; or (b) has an eye condition of a progressive nature which may lead to blindness.

Passed by the Senate March 6, 2006.

Passed by the House March 3, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

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## CHAPTER 358

[Substitute Senate Bill 6365]

### WEIGHTS AND MEASURES PROGRAM—FEES

AN ACT Relating to fees for the weights and measures program; amending RCW 19.94.175, 19.94.175, 15.80.450, 15.80.490, and 19.94.2582; creating new sections; providing effective dates; and providing an expiration date.

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

**Sec. 1.** RCW 19.94.175 and 1995 c 355 s 7 are each amended to read as follows:

(1) Pursuant to RCW 19.94.015, the following annual registration fees shall be charged for each weighing or measuring instrument or device used for commercial purposes in this state:

(a) Weighing devices:		
(i) Small scales "zero to four hundred pounds capacity" . . .	\$	<del>((5.00))</del> <u>7.50</u>
(ii) Intermediate scales "four hundred one pounds to five thousand pounds capacity" . . .	\$	<del>((20.00))</del> <u>30.00</u>
(iii) Large scales "over five thousand pounds capacity" . . .	\$	<del>((52.00))</del> <u>63.50</u>
(iv) <del>((Large scales with supplemental devices . . . . .</del>	\$	<del>52.00</del>
(v) Railroad track scales . . . . .	\$	800.00
(b) Liquid fuel metering devices:		
(i) Motor fuel meters with flows of <del>((less than))</del> twenty gallons or less per minute . . . . .	\$	<del>((5.00))</del> <u>7.50</u>
(ii) Motor fuel meters with flows of more than twenty but not more than one hundred fifty gallons per minute . . . . .	\$	<del>((16.00))</del> <u>24.00</u>
(iii) Motor fuel meters with flows over one hundred fifty gallons per minute . . . . .	\$	<del>((25.00))</del> <u>37.50</u>
(c) Liquid petroleum gas meters:		
(i) With one inch diameter or smaller dispensers . . . . .	\$	<del>((10.00))</del> <u>17.50</u>
(ii) With greater than one inch diameter dispensers . . . . .	\$	<del>((30.00))</del> <u>40.00</u>
(d) Fabric meters . . . . .	\$	<del>((5.00))</del> <u>7.50</u>
(e) Cordage meters . . . . .	\$	<del>((5.00))</del> <u>7.50</u>
(f) Mass flow meters . . . . .	\$	<del>((14.00))</del> <u>107.00</u>
(g) Taxi meters . . . . .	\$	<del>((5.00))</del> <u>15.00</u>

(2) With the exception of subsection (3) of this section, no person shall be required to pay more than the ~~((established))~~ annual registration fee ~~((adopted under this section))~~ for any weighing or measuring instrument or device in any one year.

(3) The department or a city sealer may establish reasonable inspection and testing fees for each type or class of weighing or measuring instrument or device specially requested to be inspected or tested by the device owner. These inspection and testing fees shall be limited to those amounts necessary for the department or city sealer to cover the direct costs associated with such inspection and testing. The fees (~~established under this subsection~~) shall not be set so as to compete with service agents normally engaged in such services.

**Sec. 2.** RCW 19.94.175 and 1995 c 355 s 7 are each amended to read as follows:

(1) Pursuant to RCW 19.94.015, the following annual registration fees shall be charged for each weighing or measuring instrument or device used for commercial purposes in this state:

(a) Weighing devices:		
(i) Small scales "zero to four hundred pounds capacity" ..	\$	<del>((5.00))</del> <u>10.00</u>
(ii) Intermediate scales "four hundred one pounds to five thousand pounds capacity" ..	\$	<del>((20.00))</del> <u>40.00</u>
(iii) Large scales "over five thousand pounds capacity" ..	\$	<del>((52.00))</del> <u>75.00</u>
(iv) <del>((Large scales with supplemental devices .....</del>	\$	<del>52.00</del>
(v)) Railroad track scales .....	\$	800.00
(b) Liquid fuel metering devices:		
(i) Motor fuel meters with flows of <del>((less than))</del> twenty gallons <u>or less</u> per minute .....	\$	<del>((5.00))</del> <u>10.00</u>
(ii) Motor fuel meters with flows of more than twenty but not more than one hundred fifty gallons per minute .....	\$	<del>((16.00))</del> <u>32.00</u>
(iii) Motor fuel meters with flows over one hundred fifty gallons per minute .....	\$	<del>((25.00))</del> <u>50.00</u>
(c) Liquid petroleum gas meters:		
(i) With one inch diameter or smaller dispensers .....	\$	<del>((10.00))</del> <u>25.00</u>
(ii) With greater than one inch diameter dispensers .....	\$	<del>((30.00))</del> <u>50.00</u>
(d) Fabric meters .....	\$	<del>((5.00))</del> <u>10.00</u>
(e) Cordage meters .....	\$	<del>((5.00))</del> <u>10.00</u>
(f) Mass flow meters .....	\$	<del>((14.00))</del> <u>200.00</u>



(g) Taxi meters .....	((5.00))
	\$ <u>25.00</u>

(2) With the exception of subsection (3) of this section, no person shall be required to pay more than the ~~((established))~~ annual registration fee ~~((adopted under this section))~~ for any weighing or measuring instrument or device in any one year.

(3) The department or a city sealer may establish reasonable inspection and testing fees for each type or class of weighing or measuring instrument or device specially requested to be inspected or tested by the device owner. These inspection and testing fees shall be limited to those amounts necessary for the department or city sealer to cover the direct costs associated with such inspection and testing. The fees ~~((established under this subsection))~~ shall not be set so as to compete with service agents normally engaged in such services.

**Sec. 3.** RCW 15.80.450 and 1969 ex.s. c 100 s 16 are each amended to read as follows:

Any person may apply to the director for a weighmaster's license. Such application shall be on a form prescribed by the director and shall include:

- (1) The full name of the person applying for such license and if the applicant is a partnership, association or corporation, the full name of each member of the partnership or the names of the officers of the association or corporation;
- (2) The principal business address of the applicant in this state and elsewhere;
- (3) The names of the persons authorized to receive and accept service of summons and legal notice of all kinds for the applicant;
- (4) The location of any scale or scales subject to the applicant's control and from which certified weights will be issued; and
- (5) Such other information as the director feels necessary to carry out the purposes of this chapter.

Such annual application shall be accompanied by a license fee of ~~((twenty))~~ fifty dollars for each scale from which certified weights will be issued and a bond as provided for in RCW 15.80.480.

**Sec. 4.** RCW 15.80.490 and 1969 ex.s. c 100 s 20 are each amended to read as follows:

Any weighmaster may file an application with the director for a license for any employee or agent to operate and issue certified weight tickets from a scale which such weighmaster is licensed to operate under the provisions of this chapter. Such application shall be submitted on a form prescribed by the director and shall contain the following:

- (1) Name of the weighmaster;
- (2) The full name of the employee or agent and his resident address;
- (3) The position held by such person with the weighmaster;
- (4) The scale or scales from which such employee or agent will issue certified weights; and
- (5) Signature of the weigher and the weighmaster.

Such annual application shall be accompanied by a license fee of ~~((five))~~ ten dollars.

**Sec. 5.** RCW 19.94.2582 and 1995 c 355 s 16 are each amended to read as follows:

(1) Each request for an official registration certificate shall be in writing, under oath, and on a form prescribed by the department and shall contain any relevant information as the director may require, including but not limited to the following:

(a) The name and address of the person, corporation, partnership, or sole proprietorship requesting registration;

(b) The names and addresses of all individuals requesting an official registration certificate from the department; and

(c) The tax registration number as required under RCW 82.32.030 or uniform business identifier provided on a master license issued under RCW 19.02.070.

(2) Each individual when submitting a request for an official registration certificate or a renewal of such a certificate shall pay a fee to the department in the amount of ~~((eighty))~~ one hundred sixty dollars per individual.

(3) The department shall issue a decision on a request for an official registration certificate within twenty days of receipt of the request. If an individual is denied their request for an official registration certificate, the department must notify that individual in writing stating the reasons for the denial and shall refund any payments made by that individual in connection with the request.

NEW SECTION. Sec. 6. The director of the department of agriculture or the director's designee shall convene its weights and measures advisory committee on a quarterly basis to monitor implementation of this act. The department and the advisory committee shall report to the appropriate committees of the legislature by December 1, 2006, if they have any recommended changes to the implementation of the weights and measures program.

NEW SECTION. Sec. 7. The department of agriculture shall provide a report to appropriate committees of the legislature on the status of the weights and measures program by December 15, 2007.

NEW SECTION. Sec. 8. (1) Sections 1 and 3 through 7 of this act take effect July 1, 2006.

(2) Section 2 of this act takes effect July 1, 2007.

NEW SECTION. Sec. 9. Section 1 of this act expires July 1, 2007.

Passed by the Senate March 7, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

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## CHAPTER 359

[Substitute Senate Bill 6540]

### LIQUOR LICENSES

AN ACT Relating to processing liquor licenses; and amending RCW 66.24.010.

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

**Sec. 1.** RCW 66.24.010 and 2004 c 133 s 1 are each amended to read as follows:

(1) Every license shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license, the liquor control board may consider any prior criminal conduct of the applicant including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. The board may, in its discretion, grant or refuse the license applied for. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting such authority shall be adopted by rule. No retail license of any kind may be issued to:

(a) A person doing business as a sole proprietor who has not resided in the state for at least one month prior to ~~((making application))~~ receiving a license, except in cases of licenses issued to dining places on railroads, boats, or aircraft;

(b) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

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

(d) A corporation or a limited liability company, unless it was created under the laws of the state of Washington or holds a certificate of authority to transact business in the state of Washington.

(3)(a) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated, as the case may be.

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

(c) The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

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

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

(4) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the board. Where the license has been suspended only, the board shall return the license to the licensee at the expiration or termination of the period of suspension. The board shall notify all vendors in the city or place where the licensee has its premises of the suspension or cancellation of the license; and no employee may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5)(a) At the time of the original issuance of a spirits, beer, and wine restaurant license, the board shall prorate the license fee charged to the new licensee according to the number of calendar quarters, or portion thereof, remaining until the first renewal of that license is required.

(b) Unless sooner canceled, every license issued by the board shall expire at midnight of the thirtieth day of June of the fiscal year for which it was issued. However, if the board deems it feasible and desirable to do so, it may establish, by rule pursuant to chapter 34.05 RCW, a system for staggering the annual renewal dates for any and all licenses authorized by this chapter. If such a system of staggered annual renewal dates is established by the board, the license fees provided by this chapter shall be appropriately prorated during the first year that the system is in effect.

(6) Every license issued under this section shall be subject to all conditions and restrictions imposed by this title or by ~~((the regulations in force from time to time))~~ rules adopted by the board. All conditions and restrictions imposed by the board in the issuance of an individual license shall be listed on the face of the individual license along with the trade name, address, and expiration date.

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

(8)(a) Unless (b) of this subsection applies, before the board issues a license to an applicant it shall give notice of such application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) If the application for a special occasion license is for an event held during a county, district, or area fair as defined by RCW 15.76.120, and the county, district, or area fair is located on property owned by the county but located within an incorporated city or town, the county legislative authority shall be the entity notified by the board under (a) of this subsection. The board shall

send a duplicate notice to the incorporated city or town within which the fair is located.

(c) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the board within twenty days after date of transmittal of such notice, written objections against the applicant or against the premises for which the license is asked. The board may extend the time period for submitting written objections.

(d) The written objections shall include a statement of all facts upon which such objections are based, and in case written objections are filed, may request and the liquor control board may in its discretion hold a ~~((formal))~~ hearing subject to the applicable provisions of Title 34 RCW.

(e) Upon the granting of a license under this title the board shall send ~~((a duplicate of the license or))~~ written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns. When the license is for a special occasion license for an event held during a county, district, or area fair as defined by RCW 15.76.120, and the county, district, or area fair is located on county-owned property but located within an incorporated city or town, the ~~((duplicate))~~ written notification shall be sent to both the incorporated city or town and the county legislative authority.

(9)~~(a)~~ Before the board issues any license to any applicant, it shall give ~~((a))~~ (i) due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools, and public institutions and ~~((b))~~ (ii) written notice ~~((by certified mail))~~, with receipt verification, of the application to ~~((churches, schools, and))~~ public institutions identified by the board as appropriate to receive such notice, churches, and schools within five hundred feet of the premises to be licensed. The board shall issue no beer retailer license for either on-premises or off-premises consumption or wine retailer license for either on-premises or off-premises consumption or spirits, beer, and wine restaurant license covering any premises not now licensed, if such premises are within five hundred feet of the premises of any tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the ~~((outer property line))~~ main entrance of the school ~~((grounds))~~ to the nearest public entrance of the premises proposed for license, and if, after receipt by the school ~~((or public institution))~~ of the notice as provided in this subsection, the board receives written ~~((notice))~~ objection, within twenty days after ~~((posting))~~ receiving such notice, from an official representative or representatives of the school within five hundred feet of said proposed licensed premises, indicating to the board that there is an objection to the issuance of such license because of proximity to a school. The board may extend the time period for submitting objections. For the purpose of this section, church shall mean a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith. For the purpose of this section, public institution shall mean institutions of higher education, parks, community centers, libraries, and transit centers.

(b) No liquor license may be issued or reissued by the board to any motor sports facility or licensee operating within the motor sports facility unless the motor sports facility enforces a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program is approved by local law enforcement agencies.

(c) It is the intent under this subsection (9) that a retail license shall not be issued by the board where doing so would, in the judgment of the board, adversely affect a private school meeting the requirements for private schools under Title 28A RCW, which school is within five hundred feet of the proposed licensee. The board shall fully consider and give substantial weight to objections filed by private schools. If a license is issued despite the proximity of a private school, the board shall state in a letter addressed to the private school the board's reasons for issuing the license.

(10) The restrictions set forth in subsection (9) of this section shall not prohibit the board from authorizing the assumption of existing licenses now located within the restricted area by other persons or licenses or relocations of existing licensed premises within the restricted area. In no case may the licensed premises be moved closer to a church or school than it was before the assumption or relocation.

(11)(a) Nothing in this section prohibits the board, in its discretion, from issuing a temporary retail or distributor license to an applicant (~~((assuming an existing retail or distributor license))~~) to (~~((continue the operation of))~~) operate the retail or distributor premises during the period the application for the license is pending (~~((and when the following conditions exist:~~

~~(a) The licensed premises has been operated under a retail or distributor license within ninety days of the date of filing the application for a temporary license;~~

~~(b) The retail or distributor license for the premises has been surrendered pursuant to issuance of a temporary operating license;~~

~~(c) The applicant for the temporary license has filed with the board an application to assume the retail or distributor license at such premises to himself or herself; and~~

~~(d) The application for a temporary license is accompanied by a temporary license fee established by the board by rule)). The board may establish a fee for a temporary license by rule.~~

(b) A temporary license issued by the board under this section shall be for a period not to exceed sixty days. A temporary license may be extended at the discretion of the board for ~~((an))~~ additional periods of sixty-days ~~((period))~~ upon payment of an additional fee and upon compliance with all conditions required in this section.

(c) Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing. A temporary license may be canceled or suspended summarily at any time if the board determines that good cause for cancellation or suspension exists. RCW 66.08.130 ~~((and chapter 34.05 RCW shall apply))~~ applies to temporary licenses.

(d) Application for a temporary license shall be on such form as the board shall prescribe. If an application for a temporary license is withdrawn before issuance or is refused by the board, the fee which accompanied such application shall be refunded in full.

Passed by the Senate March 7, 2006.  
 Passed by the House March 1, 2006.  
 Approved by the Governor March 30, 2006.  
 Filed in Office of Secretary of State March 30, 2006.

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**CHAPTER 360**

[Substitute Senate Bill 6597]

TRUSTS AND ESTATES

AN ACT Relating to trusts and estates; amending RCW 11.104A.040, 11.104A.050, 11.108.010, 11.108.025, 11.108.060, 11.108.900, 11.95.070, 11.24.020, 11.96A.030, 6.32.250, 19.36.020, 11.62.005, and 11.62.010; adding a new section to chapter 11.108 RCW; adding a new section to chapter 11.96A RCW; adding a new section to chapter 11.95 RCW; and creating a new section.

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

**Sec. 1.** RCW 11.104A.040 and 2002 c 345 s 106 are each amended to read as follows:

(a)(1) In this section, "beneficiary" means a person who has an interest in the trust to be converted and who has the legal capacity to act in his, her, or its own right with respect to all actions that such person may take under this section.

(2) In this section, "unitrust" means both a trust converted into a unitrust under this section and a trust initially established as a unitrust. Unless inconsistent with the terms of the trust or will, subsections (f), (g), (h), (i), and (m) of this section apply to the unitrust initially so established.

(b) Unless expressly prohibited by the terms of the trust, a trustee may release the power to make adjustments under RCW 11.104A.020 and convert a trust into a unitrust as described in this section if all of the following apply:

(1) The trustee determines that the conversion will enable the trustee better to carry out the intent of the settlor or testator and the purposes of the trust.

(2) The trustee gives written notice of the trustee's intention to release the power to adjust and to convert the trust into a unitrust and of how the unitrust will operate, including what initial decisions the trustee will make under this section, to ~~((all beneficiaries))~~ each beneficiary who, on the date the notice is given:

(i) ~~((Who are currently eligible to receive income from the trust))~~ Is a distributee or permissible distributee of trust income or principal; or

(ii) ~~((Who would receive, if no powers of appointment were exercised, a distribution of principal if the trust were to terminate immediately before the notice is given))~~ Would be a distributee or permissible distributee of trust principal if the interests of the distributees described in (2)(i) of this subsection terminated and the trust then terminated immediately before the notice was given and if no powers of appointment were exercised.

(3) There is at least one beneficiary under (2)(i) of this subsection and at least one other person who is a beneficiary under (2)(ii) of this subsection.

(4) No beneficiary objects to the conversion to a unitrust in a writing delivered to the trustee within sixty days after the notice is given under (2) of this subsection.

(c) The parties, as defined by RCW 11.96A.030(4), may agree to convert a trust to or from a unitrust by means of a binding agreement under chapter 11.96A RCW.

(d)(1) The trustee may petition the court under chapter 11.96A RCW to order a conversion to a unitrust if either of the following apply:

(i) A party, as defined by RCW 11.96A.030(4), timely objects to the conversion to a unitrust; or

(ii) There are no beneficiaries under (2)(i) and (ii) of this subsection.

(2) A party, as defined by RCW 11.96A.030(4), may request a trustee to convert to a unitrust. If the trustee does not convert, the party, as defined by RCW 11.96A.030(4), may petition the court to order the conversion.

(3) The court shall approve the conversion or direct the requested conversion if the court concludes that the conversion will enable the trustee to better carry out the intent of the settlor or testator and the purposes of the trust.

(e) In deciding whether to exercise a power to convert to a unitrust under this section, a trustee may consider, among other things, the factors set forth in RCW 11.104A.020(b).

(f) After a trust is converted to a unitrust, all of the following apply:

(1) The trustee shall follow an investment policy seeking a total return for the investments held by the trust, whether the return is to be derived:

(i) From appreciation of principal;

(ii) From earnings and distributions from principal; or

(iii) From both.

(2) The trustee shall make regular distributions in accordance with the terms of the trust, or the terms of the will, as the case may be, construed in accordance with the provisions of this section.

(3) Unless expressly prohibited by the terms of the trust, the term "income" in the terms of a trust or a will means an annual distribution, the "unitrust distribution," equal to the percentage, the "payout percentage," that is no less than three percent and no more than five percent and that the trustee may determine in the trustee's discretion from time to time, or, if the trustee makes no determination, that shall be four percent~~(, the "payout percentage,")~~ of the net fair market value of the trust's assets, whether such assets would be considered income or principal under other provisions of this chapter, averaged over the lesser of:

(i) The three preceding years; or

(ii) The period during which the trust has been in existence.

(g) The trustee may in the trustee's discretion from time to time determine all of the following:

(1) The effective date of a conversion to a unitrust.

(2) The provisions for prorating a unitrust distribution for a short year in which a beneficiary's right to payments commences or ceases.

(3) The frequency of unitrust distributions during the year.

(4) The effect of other payments from or contributions to the trust on the trust's valuation.

(5) Whether to value the trust's assets annually or more frequently.

(6) What valuation dates to use.

(7) How frequently to value nonliquid assets and whether to estimate their value.



(8) Whether to omit from the calculations trust property occupied or possessed by a beneficiary.

(9) Any other matters necessary for the proper functioning of the unitrust.

(h)(1) Expenses which would be deducted from income if the trust were not a unitrust may not be deducted from the unitrust distribution.

(2) Unless otherwise provided by the terms of the trust, the unitrust distribution shall be paid from net income, as such term would be determined if the trust were not a unitrust. To the extent net income is insufficient, the unitrust distribution shall be paid from net realized short-term capital gains. To the extent net income and net realized short-term capital gains are insufficient, the unitrust distribution shall be paid from net realized long-term capital gains. To the extent net income and net realized short-term and long-term capital gains are insufficient, the unitrust distribution shall be paid from the principal of the trust.

(3) To the extent necessary to cause gains from the sale or exchange of unitrust assets to be treated as income under any federal, state, or local income tax (for example, section 643 of the Internal Revenue Code and its regulations, including Treasury Regulation § 1.643(b)-1, as amended or renumbered), the trustee has the discretionary power to allocate the gains to income, so long as the power is reasonably and impartially exercised.

(i) The trustee or, if the trustee declines to do so, a beneficiary may petition the court:

(1) To ~~((select a))~~ change the payout percentage ~~((different than four percent))~~.

(2) To provide for a distribution of net income, as would be determined if the trust were not a unitrust, in excess of the unitrust distribution if such distribution is necessary to preserve a tax benefit.

(3) To average the valuation of the trust's net assets over a period other than three years.

(4) To reconvert from a unitrust.

(j) Upon a reconversion, the power to adjust under RCW 11.104A.020 is revived.

(k) A conversion to a unitrust does not affect a provision in the terms of a trust directing or authorizing the trustee to distribute principal or authorizing a beneficiary to withdraw a portion or all of the principal.

(l) A trustee may not possess or exercise any power under this section in any of the following circumstances:

(1) The unitrust distribution would be made from any amount that is permanently set aside for charitable purposes under the terms of a trust and for which a charitable deduction from a federal gift or estate tax has been taken unless both income and principal are so set aside.

(2) The possession or exercise of the power would cause an individual to be treated as the owner of all or part of the trust for federal income tax purposes and the individual would not be treated as the owner if the trustee did not possess or exercise the power.

(3) The possession or exercise of the power would cause all or any part of the trust estate to be subject to any federal gift or estate tax with respect to the individual and the trust estate would not be subject to such taxation if the trustee did not possess or exercise the power.

(4) The possession or exercise of the power would result in the disallowance of a federal gift or estate tax marital deduction which would be allowed if the trustee did not have the power.

(5) The trustee is a beneficiary of the trust.

(m) If subsection (1)(2), (3), or (5) of this section applies to a trustee and there is more than one trustee or an additional trustee who is appointed by a court order, a binding agreement, or otherwise under chapter 11.96A RCW, a cotrustee to whom subsection (1)(2), (3), or (5) of this section does not apply may possess and exercise the power unless the possession or exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust. If subsection (1)(2), (3), or (5) of this section restricts all trustees from possessing or exercising a power under this section, the trustee may petition a court under chapter 11.96A RCW for the court to effect the intended conversion or action.

(n) A trustee may release any power conferred by this section if any of the following applies:

(1) The trustee is uncertain about whether possessing or exercising the power will cause a result described in subsection (1)(2), (3), or (4) of this section.

(2) The trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (1) of this section.

The release may be permanent or for a specified period, including a period measured by the life of an individual.

**Sec. 2.** RCW 11.104A.050 and 2002 c 345 s 201 are each amended to read as follows:

After a decedent dies, and subject to chapter 11.10 RCW, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

(1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in Articles 3 through 5 of this chapter which apply to trustees and the rules in subsection (5) of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Articles 3 through 5 of this chapter which apply to trustees, except to the extent that the following apply:

(i) The fiduciary shall include in net income all income from property used to discharge liabilities;

(ii) The fiduciary shall pay from income or principal, in the fiduciary's discretion, family allowances; fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

(iii) The fiduciary shall pay from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses,

disposition of remains, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of a trust, or applicable law from net income determined under subsection (2) of this section or from principal to the extent that net income is insufficient. Otherwise, no outright gift of a pecuniary amount whether under a will, or under a trust after an income interest ends shall receive interest or any other income.

(4) A fiduciary shall distribute the net income remaining after distributions required by subsection (3) of this section in the manner described in RCW 11.104A.060 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(5) A fiduciary may not reduce principal or income receipts from property described in subsection (1) of this section because of a payment described in RCW 11.104A.250 or 11.104A.260 to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

**Sec. 3.** RCW 11.108.010 and 1997 c 252 s 81 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) The term "pecuniary bequest" means a gift in a governing instrument which either is expressly stated as a fixed dollar amount or is a gift of a dollar amount determinable by the governing instrument, and a gift expressed in terms of a "sum" or an "amount," unless the context dictates otherwise, is a gift of a dollar amount.

(2) As the context might require, the term "marital deduction" means either the federal or state estate tax deduction or the federal gift tax deduction allowed for transfers to spouses under the Internal Revenue Code or applicable state law.

(3) The term "maximum marital deduction" means the maximum amount qualifying for the marital deduction.

(4) The term "marital deduction gift" means a gift intended to qualify for the marital deduction as indicated by a preponderance of the evidence including the governing instrument and extrinsic evidence whether or not the governing instrument is found to be ambiguous.

(5) The term "governing instrument" includes, but is not limited to: Will and codicils; revocable trusts and amendments or addenda to revocable trusts; irrevocable trusts; beneficiary designations under life insurance policies, annuities, employee benefit plans, and individual retirement accounts; payable-

on-death, trust, or joint with right of survivorship bank or brokerage accounts; transfer on death designations or transfer on death or pay on death securities; and documents exercising powers of appointment.

(6) The term "fiduciary" means trustee or personal representative. Reference to a fiduciary in the singular includes the plural where the context requires.

(7) The term "gift" refers to all gifts, legacies, devises, and bequests made in a governing instrument, whether outright or in trust, and whether made during the life of the transferor or as a result of the transferor's death.

(8) The term "transferor" means the testator, donor, grantor, or other person making a gift.

(9) The term "spouse" includes the transferor's surviving spouse in the case of a deceased transferor.

NEW SECTION. Sec. 4. A new section is added to chapter 11.108 RCW to read as follows:

(1) The legislature finds that the citizens and residents of the state, and nonresidents of the state having property located in Washington, desire to take full advantage of the exemptions, exclusions, deductions, and credits allowable under the federal estate, gift, income, and generation-skipping transfer taxes, and the Washington counterparts to those taxes, if any, unless the facts and circumstances indicate otherwise, or the transferor has expressed a contrary intent in the governing instrument.

(2) In interpreting, construing, or administering a governing instrument, absent a clear expression of intent by the transferor to the contrary, the following presumptions apply and may only be rebutted by clear, cogent, and convincing evidence to the contrary, but these presumptions of intent do not require the making of any particular voluntary tax election:

(a) The transferor intended to take advantage of the maximum benefit of tax deductions, exemptions, exclusions, or credits;

(b) The transferor intended any gift to a spouse made outright and free of trust is to qualify for the gift or estate tax marital deduction and to be a marital deduction gift; and

(c) If the governing instrument refers to a trust as a marital trust, QTIP trust, or spousal trust, or refers to qualified terminable interest property, QTIP, or QTIP property, sections 2044, 2056, and 2523 of the Internal Revenue Code or similar provisions of applicable state law, the transferor intended the property passing to such a trust and the trust to qualify for the applicable gift or estate tax marital deduction, and for the gift to qualify for a marital deduction gift.

(3) References in this chapter to provisions of the Internal Revenue Code include references to similar provisions, if any, of applicable state law.

Sec. 5. RCW 11.108.025 and 1997 c 252 s 83 are each amended to read as follows:

Unless a governing instrument directs to the contrary:

(1) The fiduciary shall have the power to make elections, in whole or in part, to qualify property for the marital deduction as qualified terminable interest property under section 2056(b)(7) or 2523(f) of the Internal Revenue Code or, if the surviving spouse is not a citizen of the United States, under section 2056A of the Internal Revenue Code. Further, the fiduciary shall have the power to make

generation-skipping transfer tax allocations under section 2632 of the Internal Revenue Code.

(2) The fiduciary making an election under section 2056(b)(7), 2523(f), or 2056A of the Internal Revenue Code or making an allocation under section 2632 of the Internal Revenue Code may benefit personally from the election or allocation, with no duty to reimburse any other person interested in the election or allocation. The fiduciary shall have no duty to make any equitable adjustment and shall have no duty to treat interested persons impartially in respect of the election or allocation.

(3) The fiduciary of a trust, if an election is made under section 2056(b)(7), 2523(f), or 2056A of the Internal Revenue Code, if an allocation is made under section 2632 of the Internal Revenue Code, or if division of a trust is of benefit to the persons interested in the trust, may divide the trust into two or more separate trusts, of equal or unequal value, if:

(a) The terms of the separate trusts which result are substantially identical to the terms of the trust before division;

(b) In the case of a trust otherwise qualifying for the marital deduction under the Internal Revenue Code, the division shall not prevent a separate trust for which the election is made from qualifying for the marital deduction; and

(c) The allocation of assets shall be based upon the fair market value of the assets at the time of the division.

(4) For state and federal estate tax purposes, a fiduciary may make inconsistent elections under section 2056(b)(7) or 2056A of the Internal Revenue Code and under similar provisions of applicable state law.

**Sec. 6.** RCW 11.108.060 and 1999 c 44 s 1 are each amended to read as follows:

For an estate that exceeds the amount exempt from state or federal tax by virtue of the credit under section 2010 of the Internal Revenue Code, if taking into account applicable adjusted taxable gifts as defined in section 2001(b) of the Internal Revenue Code, any marital deduction gift that is conditioned upon the transferor's spouse surviving the transferor for a period of more than six months, is governed by the following:

(1) A survivorship requirement expressed in the governing instrument in excess of six months or which may exceed six months, other than survival by a spouse of a common disaster resulting in the death of the transferor, does not apply to property passing under the marital deduction gift, and for the gift, the survivorship requirement ~~((is limited to a six month period beginning with the transferor's death))~~ may not exceed the period ending six months following the transferor's date of death, as established under section 2056(b)(3) of the Internal Revenue Code.

(2) If the property that is the subject of the marital deduction gift is passing or is to be held in trust, as opposed to passing outright, it must be held in a trust meeting the requirements of section 2056(b)(7) of the Internal Revenue Code the corpus of which must: (a) Pass as though the spouse failed to survive the transferor if the spouse, in fact, fails to survive the term specified in the governing instrument; and (b) pass to the spouse under the terms of the governing instrument if the spouse, in fact, survives the term specified in the governing instrument.

**Sec. 7.** RCW 11.108.900 and 1999 c 42 s 631 are each amended to read as follows:

(1) This chapter applies to all estates, trusts, and governing instruments in existence on or any time after March 7, 1984, and to all proceedings with respect thereto after that date, whether the proceedings commenced before or after that date, and including distributions made after that date. This chapter shall not apply to any governing instrument the terms of which expressly or by necessary implication make this chapter inapplicable. The judicial and nonjudicial dispute resolution procedures of chapter 11.96A RCW apply to this chapter.

(2) Sections 3 through 6, chapter — (this act), Laws of 2006 are remedial in nature and shall be liberally applied in order to achieve the purposes of this act.

**Sec. 8.** RCW 11.95.070 and 1985 c 30 s 37 are each amended to read as follows:

(1) This chapter does not apply to any power as trustee described in and subject to RCW 11.98.019.

(2) This chapter does not apply to the powers of a personal representative of the estate of a decedent when acting in the capacity of personal representative.

(3) Sections 33 through 36, 38, and 39, chapter 149, Laws of 1984 and the 1984 recodification of RCW 64.24.050 as RCW 11.95.050 apply as of January 1, 1985, to all existing or subsequently created powers of appointment, but not to any power of appointment that expressly or by necessary implication (~~make[s]~~) makes those 1984 changes inapplicable.

**Sec. 9.** RCW 11.24.020 and 1965 c 145 s 11.24.020 are each amended to read as follows:

Upon the filing of the petition referred to in RCW 11.24.010, (~~a citation shall be issued~~) notice shall be given as provided in RCW 11.96A.100 to the executors who have taken upon themselves the execution of the will, or to the administrators with the will annexed, (~~and~~) to all legatees named in the will (~~residing in the state~~), or to their guardians if any of them are minors, or their personal representatives if any of them are dead, (~~requiring them to appear before the court, on a day therein specified, to show cause why the petition should not be granted~~) and to all persons interested in the matter, as defined in RCW 11.96A.030(5).

**Sec. 10.** RCW 11.96A.030 and 2002 c 66 s 2 are each amended to read as follows:

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

(1) "Matter" includes any issue, question, or dispute involving:

(a) The determination of any class of creditors, devisees, legatees, heirs, next of kin, or other persons interested in an estate, trust, nonprobate asset, or with respect to any other asset or property interest passing at death;

(b) The direction of a personal representative or trustee to do or to abstain from doing any act in a fiduciary capacity;

(c) The determination of any question arising in the administration of an estate or trust, or with respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, that may include, without limitation, questions relating to: (i) The construction of wills, trusts, community property agreements, and other writings; (ii) a change of personal representative

or trustee; (iii) a change of the situs of a trust; (iv) an accounting from a personal representative or trustee; or (v) the determination of fees for a personal representative or trustee;

(d) The grant to a personal representative or trustee of any necessary or desirable power not otherwise granted in the governing instrument or given by law;

(e) The amendment, reformation, or conformation of a will or a trust instrument to comply with statutes and regulations of the United States internal revenue service in order to achieve qualification for deductions, elections, and other tax requirements, including the qualification of any gift thereunder for the benefit of a surviving spouse who is not a citizen of the United States for the estate tax marital deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a qualified domestic trust under section 2056A of the internal revenue code, the qualification of any gift thereunder as a qualified conservation easement as permitted by federal law, or the qualification of any gift for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust; and

(f) With respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, including joint tenancy property, property subject to a community property agreement, or assets subject to a pay on death or transfer on death designation:

(i) The ascertaining of any class of creditors or others for purposes of chapter 11.18 or 11.42 RCW;

(ii) The ordering of a qualified person, the notice agent, or resident agent, as those terms are defined in chapter 11.42 RCW, or any combination of them, to do or abstain from doing any particular act with respect to a nonprobate asset;

(iii) The ordering of a custodian of any of the decedent's records relating to a nonprobate asset to do or abstain from doing any particular act with respect to those records;

(iv) The determination of any question arising in the administration under chapter 11.18 or 11.42 RCW of a nonprobate asset;

(v) The determination of any questions relating to the abatement, rights of creditors, or other matter relating to the administration, settlement, or final disposition of a nonprobate asset under this title;

(vi) The resolution of any matter referencing this chapter, including a determination of any questions relating to the ownership or distribution of an individual retirement account on the death of the spouse of the account holder as contemplated by RCW 6.15.020(6);

(vii) The resolution of any other matter that could affect the nonprobate asset.

(2) "Notice agent" has the meanings given in RCW 11.42.010.

(3) "Nonprobate assets" has the meaning given in RCW 11.02.005.

(4) "Party" or "parties" means each of the following persons who has an interest in the subject of the particular proceeding and whose name and address are known to, or are reasonably ascertainable by, the petitioner:

(a) The trustor if living;

(b) The trustee;

(c) The personal representative;

- (d) An heir;
  - (e) A beneficiary, including devisees, legatees, and trust beneficiaries;
  - (f) The surviving spouse of a decedent with respect to his or her interest in the decedent's property;
  - (g) A guardian ad litem;
  - (h) A creditor;
  - (i) Any other person who has an interest in the subject of the particular proceeding;
  - (j) The attorney general if required under RCW 11.110.120;
  - (k) Any duly appointed and acting legal representative of a party such as a guardian, special representative, or attorney in fact;
  - (l) Where applicable, the virtual representative of any person described in this subsection the giving of notice to whom would meet notice requirements as provided in RCW 11.96A.120;
  - (m) Any notice agent, resident agent, or a qualified person, as those terms are defined in chapter 11.42 RCW; and
  - (n) The owner or the personal representative of the estate of the deceased owner of the nonprobate asset that is the subject of the particular proceeding, if the subject of the particular proceeding relates to the beneficiary's liability to a decedent's estate or creditors under RCW 11.18.200.
- (5) "Persons interested in the estate or trust" means the trustor, if living, all persons beneficially interested in the estate or trust, persons holding powers over the trust or estate assets, the attorney general in the case of any charitable trust where the attorney general would be a necessary party to judicial proceedings concerning the trust, and any personal representative or trustee of the estate or trust.
- (6) "Principal place of administration of the trust" means the trustee's usual place of business where the day-to-day records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business.
- (7) The "situs" of a trust means the place where the principal place of administration of the trust is located, unless otherwise provided in the instrument creating the trust.
- (8) "Trustee" means any acting and qualified trustee of the trust.
- (9) "Representative" and other similar terms refer to a person who virtually represents another under RCW 11.96A.120.
- (10) "Citation" or "cite" and other similar terms, when required of a person interested in the estate or trust or a party to a petition, means to give notice as required under RCW 11.96A.100. "Citation" or "cite" and other similar terms, when required of the court, means to order, as authorized under RCW 11.96A.020 and 11.96A.060, and as authorized by law.

**NEW SECTION. Sec. 11.** A new section is added to chapter 11.96A RCW to read as follows:

In all matters governed by this title, discovery shall be permitted only in the following matters:

- (1) A judicial proceeding that places one or more specific issues in controversy that has been commenced under RCW 11.96A.100, in which case discovery shall be conducted in accordance with the superior court civil rules and applicable local rules; or



(2) A matter in which the court orders that discovery be permitted on a showing of good cause, in which case discovery shall be conducted in accordance with the superior court civil rules and applicable local rules unless otherwise limited by the order of the court.

**NEW SECTION. Sec. 12.** A new section is added to chapter 11.95 RCW to read as follows:

A person shall not be treated as having made a disposition in trust for the use of that individual by reason of a lapse of a power of withdrawal over the income or corpus of a trust created by another person. For this purpose, notification to the trustee of the trust of an intent not to exercise the power of withdrawal shall not be treated as a release of the power of withdrawal, but shall be treated as a lapse of the power.

**Sec. 13.** RCW 6.32.250 and 1987 c 442 s 1115 are each amended to read as follows:

This chapter does not authorize the seizure of, or other interference with, (1) any property which is expressly exempt by law from levy and sale by virtue of an execution, attachment, or garnishment; or (2) any money, thing in action or other property held in trust for a judgment debtor where the trust has been created by, or the fund so held in trust has proceeded from, a person other than the judgment debtor; or (3) the earnings of the judgment debtor for personal services to the extent they would be exempt against garnishment of the employer under RCW 6.27.150. For purposes of this section, a person shall not be treated as having made a disposition in trust for the use of that person by reason of a lapse of a power of withdrawal over the income or corpus of a trust created by another person. For this purpose, notification to the trustee of the trust of an intent not to exercise the power of withdrawal shall not be treated as a release of the power of withdrawal, but shall be treated as a lapse of the power.

**Sec. 14.** RCW 19.36.020 and Code 1881 s 2324 are each amended to read as follows:

That all deeds of gift, all conveyances, and all transfers or assignments, verbal or written, of goods, chattels or things in action, made in trust for the use of the person making the same, shall be void as against the existing or subsequent creditors of such person. For purposes of this section, a person shall not be treated as having made a disposition in trust for the use of that person by reason of a lapse of a power of withdrawal over the income or corpus of a trust created by another person. For this purpose, notification to the trustee of the trust of an intent not to exercise the power of withdrawal shall not be treated as a release of the power of withdrawal, but shall be treated as a lapse of the power.

**Sec. 15.** RCW 11.62.005 and 1994 c 21 s 1 are each amended to read as follows:

As used in this chapter, the following terms shall have the meanings indicated.

(1) "Personal property" shall include any tangible personal property, any instrument evidencing a debt, obligation, stock, chose in action, license or ownership, any debt or any other intangible property.

(2)(a) "Successor" and "successors" shall mean (subject to subsection (2)(b) of this section):

(i) That person or those persons who are entitled to the claimed property pursuant to the terms and provisions of the last will and testament of the decedent or by virtue of the laws of intestate succession contained in this title; and/or

(ii) The surviving spouse of the decedent to the extent that the surviving spouse is entitled to the property claimed as his or her undivided one-half interest in the community property of said spouse and the decedent; and/or

(iii) The department of social and health services, to the extent of funds expended or paid, in the case of claims provided under RCW 43.20B.080; and/or

(iv) This state, in the case of escheat property.

(b) Any person claiming to be a successor solely by reason of being a creditor of the decedent or of the decedent's estate, except for the state as set forth in (a)(iii) and (iv) of this subsection, shall be excluded from the definition of "successor".

(3) "Person" shall mean any individual or organization(-

~~(4) "Organization" shall include a)~~, specifically including but not limited to a bank, credit union, brokerage firm or stock transfer agent, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

**Sec. 16.** RCW 11.62.010 and 1995 1st sp.s. c 18 s 60 are each amended to read as follows:

(1) At any time after forty days from the date of a decedent's death, any person who is indebted to or who has possession of any personal property belonging to the decedent or to the decedent and his or her surviving spouse as a community, which debt or personal property is an asset which is subject to probate, shall pay such indebtedness or deliver such personal property, or so much of either as is claimed, to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by said person which meets the requirements of subsection (2) of this section.

(2) An affidavit which is to be made pursuant to this section shall state:

(a) The claiming successor's name and address, and that the claiming successor is a "successor" as defined in RCW 11.62.005;

(b) That the decedent was a resident of the state of Washington on the date of his or her death;

(c) That the value of the decedent's entire estate subject to probate, not including the surviving spouse's community property interest in any assets which are subject to probate in the decedent's estate, wherever located, less liens and encumbrances, does not exceed ~~((sixty))~~ one hundred thousand dollars;

(d) That forty days have elapsed since the death of the decedent;

(e) That no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent including funeral and burial expenses have been paid or provided for;

(g) A description of the personal property and the portion thereof claimed, together with a statement that such personal property is subject to probate;

(h) That the claiming successor has given written notice, either by personal service or by mail, identifying his or her claim, and describing the property

claimed, to all other successors of the decedent, and that at least ten days have elapsed since the service or mailing of such notice; and

(i) That the claiming successor is either personally entitled to full payment or delivery of the property claimed or is entitled to full payment or delivery thereof on the behalf and with the written authority of all other successors who have an interest therein.

(3) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to be the successor with respect to such security upon the presentation of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section. Any governmental agency required to issue certificates of ownership or of license registration to personal property shall issue a new certificate of ownership or of license registration to a person claiming to be a successor of the decedent upon receipt of proof of death and of an affidavit made by such person which meets the requirements of subsection (2) of this section.

(4) No release from any Washington state or local taxing authority may be required before any assets or debts are paid or delivered to a successor of a decedent as required under this section.

(5) A copy of the affidavit, including the decedent's social security number, shall be mailed to the state of Washington, department of social and health services, office of financial recovery.

**NEW SECTION. Sec. 17.** This act clarifies and declares the existing laws of this state. This act is enforceable as to all persons and all trusts regardless of when the trust was created.

**NEW SECTION. Sec. 18.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate March 7, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

## CHAPTER 361

[Substitute Senate Bill 6686]

### LOCAL SALES AND USE TAX

AN ACT Relating to authorizing a local sales and use tax that is credited against the state sales and use tax; and adding a new section to chapter 82.14 RCW.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 82.14 RCW to read as follows:

(1) The legislative authority of any city with a population less than four hundred thousand and which is located in a county with a population greater than six hundred thousand that annexes an area consistent with its comprehensive plan required by chapter 36.70A RCW, may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and shall be collected from those persons who are

taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the city. The tax may only be imposed by a city if:

(a) The city has commenced annexation of an area under chapter 35.13 or 35A.14 RCW having a population of at least ten thousand people prior to January 1, 2010; and

(b) The city legislative authority determines by resolution or ordinance that the projected cost to provide municipal services to the annexation area exceeds the projected general revenue that the city would otherwise receive from the annexation area on an annual basis.

(2) The tax authorized under this section is a credit against the state tax under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the city at no cost to the city and shall remit the tax to the city as provided in RCW 82.14.060.

(3) The maximum rate of tax any city may impose under this section shall be 0.2 percent for the total number of annexed areas the city may annex. The rate of the tax imposed under this section is 0.1 percent for each annexed area population that is greater than ten thousand and less than twenty thousand. The rate of the tax imposed under this section shall be 0.2 percent for an annexed area which the population is greater than twenty thousand.

(4) The tax imposed by this section shall only be imposed at the beginning of a fiscal year and shall continue for no more than ten years from the date the tax is first imposed. Tax rate increases due to additional annexed areas shall be effective on July 1st of the fiscal year following the fiscal year in which the annexation occurred, provided that notice is given to the department as set forth in subsection (8) of this section.

(5) All revenue collected under this section shall be used solely to provide, maintain, and operate municipal services for the annexation area.

(6) The revenues from the tax authorized in this section may not exceed that which the city deems necessary to generate revenue equal to the difference between the city's cost to provide, maintain, and operate municipal services for the annexation area and the general revenues that the cities would otherwise expect to receive from the annexation during a year. If the revenues from the tax authorized in this section and the revenues from the annexation area exceed the costs to the city to provide, maintain, and operate municipal services for the annexation area during a given year, the city shall notify the department and the tax distributions authorized in this section shall be suspended for the remainder of the year.

(7) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the legislative authority of a city shall adopt an ordinance that includes the following:

(a) The rate of tax under this section that shall be imposed within the city; and

(b) The threshold amount for the first fiscal year following the annexation and passage of the ordinance.

(8) The tax shall cease to be distributed to the city for the remainder of the fiscal year once the threshold amount has been reached. No later than March 1st of each year, the city shall provide the department with a new threshold amount for the next fiscal year, and notice of any applicable tax rate changes. Distributions of tax under this section shall begin again on July 1st of the next

fiscal year and continue until the new threshold amount has been reached or June 30th, whichever is sooner. Any revenue generated by the tax in excess of the threshold amount shall belong to the state of Washington. Any amount resulting from the threshold amount less the total fiscal year distributions, as of June 30th, shall not be carried forward to the next fiscal year.

(9) The following definitions apply throughout this section unless the context clearly requires otherwise:

(a) "Annexation area" means an area that has been annexed to a city under chapter 35.13 or 35A.14 RCW. "Annexation area" includes all territory described in the city resolution.

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

(c) "Municipal services" means those services customarily provided to the public by city government.

(d) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(e) "Threshold amount" means the maximum amount of tax distributions as determined by the city in accordance with subsection (6) of this section that the department shall distribute to the city generated from the tax imposed under this section in a fiscal year.

**NEW SECTION. Sec. 2.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed by the Senate February 22, 2006.

Passed by the House March 6, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

## CHAPTER 362

[Substitute Senate Bill 6791]

### LIQUOR LICENSES—FERRIES

AN ACT Relating to liquor licenses issued to entities providing concession services on vessels owned by the Washington state ferries; and amending RCW 66.24.320.

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

**Sec. 1.** RCW 66.24.320 and 2005 c 152 s 1 are each amended to read as follows:

There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine that was purchased for consumption with a meal.

(1) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in

subsection (3) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises under the following conditions:

(a) Agreements between the domestic winery and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcohol beverages to be served, and be filed with the board; and

(b) The domestic winery and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer and/or wine licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route.

Passed by the Senate February 13, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 30, 2006.

Filed in Office of Secretary of State March 30, 2006.

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### CHAPTER 363

[House Bill 1439]

#### GENERAL ADMINISTRATION—ELECTRONIC BIDDING

AN ACT Relating to electronic and web-based bidding; amending RCW 43.19.1906, 43.19.1908, and 43.19.1911; adding a new section to chapter 39.04 RCW; adding a new section to chapter 39.29 RCW; and adding a new section to chapter 43.105 RCW.

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

**Sec. 1.** RCW 43.19.1906 and 2002 c 332 s 4 are each amended to read as follows:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed, electronic, or web-based bid procedure, subject to RCW 43.19.1911, shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed, electronic, or web-based competitive bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to three thousand dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management division under RCW 43.41.310;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and

appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases for resale by institutions of higher education to other than public agencies when such purchases are for the express purpose of supporting instructional programs and may best be executed through direct negotiation with one or more suppliers in order to meet the special needs of the institution;

(8) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between three thousand dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between three thousand dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from three thousand to thirty-five thousand dollars shall be documented for audit purposes; and

(9) Negotiation of a contract by the department of transportation, valid until June 30, 2001, with registered tow truck operators to provide roving service patrols in one or more Washington state patrol tow zones whereby those registered tow truck operators wishing to participate would cooperatively, with the department of transportation, develop a demonstration project upon terms and conditions negotiated by the parties.

Beginning on July 1, 1995, and on July 1 of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. However, the three thousand dollar figure in subsections (2) and (8) of this section may not be adjusted to exceed five thousand dollars.

**Sec. 2.** RCW 43.19.1908 and 1994 c 300 s 2 are each amended to read as follows:

Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in ~~((writing))~~ written or electronic form and conform to rules of the division of purchasing.



**Sec. 3.** RCW 43.19.1911 and 2005 c 204 s 5 are each amended to read as follows:

(1) Preservation of the integrity of the competitive bid system dictates that after competitive bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid pursuant to subsections (7) and (9) of this section, unless there is a compelling reason to reject all bids and cancel the solicitation.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the purchasing agency, division, or department head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the purchasing agency, division, or department head determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The supplies or services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the agency;

(e) Bids received indicate that the needs of the agency can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder;

(h) The bid process was not fair or equitable.

(5) The agency, division, or department head may not delegate his or her authority under this section.

(6) After the opening of bids, an agency may not reject all bids and enter into direct negotiations to complete the planned acquisition. However, the agency can enter into negotiations exclusively with the lowest responsible bidder in order to determine if the lowest responsible bid may be improved. Until December 31, 2009, for purchases requiring a formal bid process the agency shall also enter into negotiations with and may consider for award the lowest responsible bidder that is a vendor in good standing, as defined in RCW 43.19.525. An agency shall not use this negotiation opportunity to permit a bidder to change a nonresponsive bid into a responsive bid.

(7) In determining the lowest responsible bidder, the agency shall consider any preferences provided by law to Washington products and vendors and to RCW 43.19.704, and further, may take into consideration the quality of the

articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery.

(8) Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. Bid prices shall not be disclosed during electronic or web-based bidding before the letting of the contract.

(9) In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services;

(f) Such other information as may be secured having a bearing on the decision to award the contract: PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

**\*NEW SECTION. Sec. 4. A new section is added to chapter 39.04 RCW to read as follows:**

***(1) Any state agency, city with a population greater than one hundred thousand, or counties with a population greater than five hundred thousand executing public works using a competitive bidding process cannot reject all bids after opening unless there is a compelling reason.***

***(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the director or agency head or the appropriate city or county contract authority, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a bid solicitation.***

(3) *After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.*

(4) *A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the state, city, or county determines in writing that:*

(a) *Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;*

(b) *Specifications, terms, conditions, or requirements have been revised;*

(c) *The services being contracted for are no longer required;*

(d) *The solicitation did not provide for consideration of all factors of cost to the agency, city, or county;*

(e) *Bids received indicate that the needs of the state, city, or county can be satisfied by a less expensive article differing from that for which the bids were invited;*

(f) *All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency, city, or county cannot determine the reasonableness of the bid price;*

(g) *No responsive bid has been received from a responsible bidder; or*

(h) *The bid process was not fair or equitable.*

(5) *The state agency head or city or county contract authority may not delegate his or her authority under this section.*

*\*Sec. 4 was vetoed. See message at end of chapter.*

*\*NEW SECTION. Sec. 5. A new section is added to chapter 39.29 RCW to read as follows:*

(1) *Any agency or institution of state government procuring personal services using a competitive solicitation process cannot reject all solicitations after opening unless there is a compelling reason.*

(2) *Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the director or agency head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.*

(3) *After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.*

(4) *A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the agency determines in writing that:*

(a) *Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;*

(b) *Specifications, terms, conditions, or requirements have been revised;*

(c) *The services being contracted for are no longer required;*

*(d) The solicitation did not provide for consideration of all factors of cost to the agency;*

*(e) Bids received indicate that the needs of the agency can be satisfied by a less expensive article differing from that for which the bids were invited;*

*(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;*

*(g) No responsive bid has been received from a responsible bidder; or*

*(h) The bid process was not fair or equitable.*

*(5) The agency head may not delegate his or her authority under this section.*

\*Sec. 5 was vetoed. See message at end of chapter.

**\*NEW SECTION.** *Sec. 6. A new section is added to chapter 43.105 RCW to read as follows:*

*(1) The board, or other agencies and institutions of state government the board delegates authority to, when purchasing, leasing, renting, or otherwise acquiring, disposing of, or maintaining equipment, proprietary software, or purchased services using a competitive bidding process cannot reject all bids and cancel the solicitation after the bid opening unless there is a compelling reason.*

*(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the director or purchasing agency head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.*

*(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.*

*(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the board or purchasing agency, determines in writing that:*

*(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;*

*(b) Specifications, terms, conditions, or requirements have been revised;*

*(c) The supplies or services being contracted for are no longer required;*

*(d) The solicitation did not provide for consideration of all factors of cost to the board or agency;*

*(e) Bids received indicate that the needs of the board or agency can be satisfied by a less expensive article differing from that for which the bids were invited;*

*(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the board or agency cannot determine the reasonableness of the bid price;*

*(g) No responsive bid has been received from a responsible bidder; or*

*(h) The bid process was not fair or equitable.*

*(5) The agency head may not delegate his or her authority under this section.*

\*Sec. 6 was vetoed. See message at end of chapter.

Passed by the House March 6, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 31, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 4, 5 and 6, House Bill No. 1439 entitled:

"AN ACT Relating to electronic and web-based bidding."

The Department of General Administration (Department) generally awards contracts through a competitive, formal, sealed bid process. Under House Bill No. 1439 the Department would be allowed to receive bids electronically or through the web. This is a step in the right direction. I support changes that will make the existing, complicated procurement process easier to manage and use.

However, Sections 4, 5, and 6 of the bill restrict cancellation of the bidding process and re-bidding on public works, personal service, and information technology related contracts. This bill takes cancellation language related to purchased goods and services contract bidding procedures and tries to apply it to other types of contracts, like public works contracts. Yet, there are significant differences between these contracting procedures. While the sealed bid process for purchased goods and services contracts focuses primarily on price, public works and personal service contracts address several factors including price, ability to do the work, vendor qualifications, and prior vendor experience. I am therefore concerned about the impact of Sections 4, 5 and 6.

I do not look favorably on agencies irresponsibly canceling all bids after bid opening and commencing a re-bidding process. Contractors spend too much time and effort on preparing bids to have them cancelled simply because an agency is trying to "price" a project. This is too important an issue to be addressed through language that does not comprehensively address the complex differences between our contracting processes.

As such, I am vetoing Sections 4, 5, and 6. I urge the Legislature to revisit this issue with input from all stakeholders, cities, counties, and the business community, and to propose cancellation language appropriate for our state's contracting system.

For these reasons, I have vetoed Sections 4, 5 and 6 of House Bill No. 1439.

With the exception of Sections 4, 5 and 6 of House Bill No. 1439 is approved."

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## CHAPTER 364

[Engrossed Substitute House Bill 2056]

RECREATIONAL VEHICLE SHOWS

AN ACT Relating to recreational vehicle shows; amending RCW 46.70.011; and adding a new section to chapter 46.70 RCW.

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

**Sec. 1.** RCW 46.70.011 and 2001 c 272 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Vehicle" means and includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or

may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(2) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and which is required to be registered and titled under Title 46 RCW, Motor Vehicles.

(3) "Recreational vehicle" means a travel trailer, motor home, truck camper, or camping trailer that is primarily designed and used as temporary living quarters, is either self-propelled or mounted on or drawn by another vehicle, is transient, is not occupied as a primary residence, and is not immobilized or permanently affixed to a mobile home lot.

(4) "Vehicle dealer" means any person, firm, association, corporation, or trust, not excluded by subsection ~~((4))~~ (5) of this section, engaged in the business of buying, selling, listing, exchanging, offering, brokering, leasing with an option to purchase, auctioning, soliciting, or advertising the sale of new or used vehicles, or arranging or offering or attempting to solicit or negotiate on behalf of others, a sale, purchase, or exchange of an interest in new or used motor vehicles, irrespective of whether the motor vehicles are owned by that person. Vehicle dealers shall be classified as follows:

(a) A "motor vehicle dealer" is a vehicle dealer that deals in new or used motor vehicles, or both;

(b) A "mobile home and travel trailer dealer" is a vehicle dealer that deals in mobile homes, park trailers, or travel trailers, or more than one type of these vehicles;

(c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals in motorcycles or vehicles other than motor vehicles or mobile homes and travel trailers or any combination of such vehicles;

(d) A "recreational vehicle dealer" is a vehicle dealer that deals in travel trailers, motor homes, truck campers, or camping trailers that are primarily designed and used as temporary living quarters, are either self-propelled or mounted on or drawn by another vehicle, are transient, are not occupied as a primary residence, and are not immobilized or permanently affixed to a mobile home lot.

~~((4))~~ (5) The term "vehicle dealer" does not include, nor do the licensing requirements of RCW 46.70.021 apply to, the following persons, firms, associations, or corporations:

(a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under a judgment or order of, any court; or

(b) Public officers while performing their official duties; or

(c) Employees of vehicle dealers who are engaged in the specific performance of their duties as such employees; or

(d) Any person engaged in an isolated sale of a vehicle in which that person is the registered or legal owner, or both, thereof; or

(e) Any person, firm, association, corporation, or trust, engaged in the selling of equipment other than vehicles, subject to registration, used for agricultural or industrial purposes; or

(f) A real estate broker licensed under chapter 18.85 RCW, or an affiliated licensee, who, on behalf of another negotiates the purchase, sale, lease, or exchange of a manufactured or mobile home in conjunction with the purchase,

sale, exchange, rental, or lease of the land upon which the manufactured or mobile home is, or will be, located; or

(g) Owners who are also operators of the special highway construction equipment or of the highway construction equipment for which a vehicle license and display vehicle license number plate is required as defined in RCW 46.16.010; or

(h) Any bank, trust company, savings bank, mutual savings bank, savings and loan association, credit union, and any parent, subsidiary, or affiliate thereof, authorized to do business in this state under state or federal law with respect to the sale or other disposition of a motor vehicle owned and used in their business; or with respect to the acquisition and sale or other disposition of a motor vehicle in which the entity has acquired an interest as a lessor, lessee, or secured party; or

(i) Any person who is regularly engaged in the business of acquiring leases or installment contracts by assignment, with respect to the acquisition and sale or other disposition of a motor vehicle in which the person has acquired an interest as a result of the business.

~~((5))~~ (6) "Vehicle salesperson" means any person who for any form of compensation sells, auctions, leases with an option to purchase, or offers to sell or to so lease vehicles on behalf of a vehicle dealer.

~~((6))~~ (7) "Department" means the department of licensing, which shall administer and enforce the provisions of this chapter.

~~((7))~~ (8) "Director" means the director of licensing.

~~((8))~~ (9) "Manufacturer" means any person, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new and unused vehicles or remanufactures vehicles in whole or in part and further includes the terms:

(a) "Distributor," which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new and unused vehicle to vehicle dealers or who maintains factory representatives.

(b) "Factory branch," which means a branch office maintained by a manufacturer for the purpose of selling or offering for sale, vehicles to a distributor, wholesaler, or vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives, and further includes any sales promotion organization, whether a person, firm, or corporation, which is engaged in promoting the sale of new and unused vehicles in this state of a particular brand or make to vehicle dealers.

(c) "Factory representative," which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of their vehicles or for supervising or contracting with their dealers or prospective dealers.

~~((9))~~ (10) "Established place of business" means a location meeting the requirements of RCW 46.70.023(1) at which a vehicle dealer conducts business in this state.

~~((10))~~ (11) "Principal place of business" means that dealer firm's business location in the state, which place the dealer designates as their principal place of business.

~~((11))~~ (12) "Subagency" means any place of business of a vehicle dealer within the state, which place is physically and geographically separated from the principal place of business of the firm or any place of business of a vehicle dealer within the state, at which place the firm does business using a name other than the principal name of the firm, or both.

~~((12))~~ (13) "Temporary subagency" means a location other than the principal place of business or subagency within the state where a licensed vehicle dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten days for a specific purpose such as auto shows, shopping center promotions, tent sales, exhibitions, or similar merchandising ventures. No more than six temporary subagency licenses may be issued to a licensee in any twelve-month period.

~~((13))~~ (14) "Wholesale vehicle dealer" means a vehicle dealer who buys and sells other than at retail.

~~((14))~~ (15) "Retail vehicle dealer" means a vehicle dealer who may buy and sell at both wholesale and retail.

~~((15))~~ (16) "Listing dealer" means a used mobile home dealer who makes contracts with sellers who will compensate the dealer for obtaining a willing purchaser for the seller's mobile home.

~~((16))~~ (17) "Auction" means a transaction conducted by means of exchanges between an auctioneer and the members of the audience, constituting a series of oral invitations for offers for the purchase of vehicles made by the auctioneer, offers to purchase by members of the audience, and the acceptance of the highest or most favorable offer to purchase.

~~((17))~~ (18) "Auction company" means a sole proprietorship, partnership, corporation, or other legal or commercial entity licensed under chapter 18.11 RCW that only sells or offers to sell vehicles at auction or only arranges or sponsors auctions.

~~((18))~~ (19) "Buyer's agent" means any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation retained or employed by a consumer to arrange for or to negotiate, or both, the purchase or lease of a new motor vehicle on behalf of the consumer, and who is paid a fee or receives other compensation from the consumer for its services.

~~((19))~~ (20) "New motor vehicle" means any motor vehicle that is self-propelled and is required to be registered and titled under Title 46 RCW, has not been previously titled to a retail purchaser or lessee, and is not a "used vehicle" as defined under RCW 46.04.660.

**NEW SECTION. Sec. 2.** A new section is added to chapter 46.70 RCW to read as follows:

(1)(a) Before the department may issue a temporary subagency license to a recreational vehicle dealer engaged in offering new or new and used recreational vehicles for sale at a recreational vehicle show, a recreational vehicle dealer of new or new and used recreational vehicles shall submit to the department a manufacturer's written authorization for the sale and specifying the dates of the show, the location of the show, and the identity of the manufacturer's brand or model names of the new or used recreational vehicles.

(b) The department may issue a temporary subagency license if the location of the show is within fifty miles of the recreational vehicle dealer's established



place of business or permanent location. The department may issue a temporary subagency license for a show outside fifty miles of the recreational vehicle dealer's established place of business or permanent location only if the product represented is new and is within the factory designated sales territory for each brand of new recreational vehicles to be offered for sale, and only those specific brands of new recreational vehicles may be offered for sale under the terms of the temporary subagency license.

(2) Whenever three or fewer recreational vehicle dealers participate in a show under a temporary subagency license issued under this section, each recreational vehicle dealer shall conspicuously include all of the following information in all advertising and promotional materials designed to attract the public to attend the show:

(a) Each recreational vehicle dealer's business name and the location of the recreational vehicle dealer's established place of business must be printed in a size equivalent to the second largest type used in the advertisement and must be placed at the top of the advertisement; and

(b) The manufacturer's brand or model names of those new recreational vehicles being offered for sale; and

(c) If the recreational vehicles being offered for sale are used, the word "used" must immediately precede the identification of the brand name of the model or be immediately adjacent to the depiction of used vehicles.

(3) Notwithstanding other provisions of this chapter, no more than two temporary subagency licenses may be issued to a recreational vehicle dealer engaged in offering new or new and used recreational vehicles for sale for events with three or fewer recreational vehicle dealers participating, and no more than six temporary subagency licenses may be issued to a recreational vehicle dealer in any twelve-month period for events including four or more recreational vehicle dealers.

(4) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business. A violation of this section is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

Passed by the House February 14, 2006.

Passed by the Senate March 2, 2006.

Approved by the Governor March 31, 2006.

Filed in Office of Secretary of State March 31, 2006.

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## CHAPTER 365

[House Bill 2681]

### PUBLIC RETIREMENT—CONTRIBUTION RATES

AN ACT Relating to minimum contribution rates for the public employees' retirement system, the public safety employees' retirement system, the school employees' retirement system, and the teachers' retirement system; reenacting and amending RCW 41.45.020; adding new sections to chapter 41.45 RCW; and providing an effective date.

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

**Sec. 1.** RCW 41.45.020 and 2004 c 242 s 37 and 2004 c 93 s 1 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Council" means the pension funding council created in RCW 41.45.100.

(2) "Department" means the department of retirement systems.

(3) "Law enforcement officers' and fire fighters' retirement system plan 1" and "law enforcement officers' and fire fighters' retirement system plan 2" means the benefits and funding provisions under chapter 41.26 RCW.

(4) "Public employees' retirement system plan 1," "public employees' retirement system plan 2," and "public employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.40 RCW.

(5) "Teachers' retirement system plan 1," "teachers' retirement system plan 2," and "teachers' retirement system plan 3" mean the benefits and funding provisions under chapter 41.32 RCW.

(6) "School employees' retirement system plan 2" and "school employees' retirement system plan 3" mean the benefits and funding provisions under chapter 41.35 RCW.

(7) "Washington state patrol retirement system" means the retirement benefits provided under chapter 43.43 RCW.

(8) "Unfunded liability" means the unfunded actuarial accrued liability of a retirement system.

(9) "Actuary" or "state actuary" means the state actuary employed under chapter 44.44 RCW.

(10) "State retirement systems" means the retirement systems listed in RCW 41.50.030.

(11) "Classified employee" means a member of the Washington school employees' retirement system plan 2 or plan 3 as defined in RCW 41.35.010.

(12) "Teacher" means a member of the teachers' retirement system as defined in RCW 41.32.010(15).

(13) "Select committee" means the select committee on pension policy created in RCW 41.04.276.

(14) "Actuarial value of assets" means the value of pension plan investments and other property used by the actuary for the purpose of an actuarial valuation.

(15) "Public safety employees' retirement system plan 2" means the benefits and funding provisions established under chapter 41.37 RCW.

(16) "Normal cost" means the portion of the actuarial present value of projected benefits and expenses that is allocated to a period, typically twelve months, under the actuarial cost method.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.45 RCW to read as follows:

(1) Beginning July 1, 2009, a minimum 2.68 percent contribution is established as part of the basic state and employer contribution rate for the public employees' retirement system and the public safety employees' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the public employees' retirement system plan 1. This minimum contribution rate shall remain effective until the actuarial value of

assets in plan 1 of the public employees' retirement system equals one hundred twenty-five percent of the actuarial accrued liability or June 30, 2024, whichever comes first.

(2) Beginning September 1, 2009, a minimum 2.68 percent contribution is established as part of the basic state and employer contribution rate for the school employees' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the public employees' retirement system plan 1. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the public employees' retirement system equals one hundred twenty-five percent of the actuarial accrued liability or June 30, 2024, whichever comes first.

(3) Beginning September 1, 2009, a minimum 4.71 percent contribution is established as part of the basic state and employer contribution rate for the teachers' retirement system, to be used for the sole purpose of amortizing the unfunded actuarial accrued liability in the teachers' retirement system plan 1. This minimum contribution rate shall remain effective until the actuarial value of assets in plan 1 of the teachers' retirement system equals one hundred twenty-five percent of the actuarial accrued liability or June 30, 2024, whichever comes first.

(4) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of these minimum contribution rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience.

**NEW SECTION. Sec. 3.** A new section is added to chapter 41.45 RCW to read as follows:

(1) Beginning July 1, 2009, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the basic state and employer contribution rate for the public employees' retirement system. The minimum contribution rate for the plans 2 and 3 employer normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employer normal cost as calculated under the entry age normal cost method.

(2) Beginning September 1, 2009, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the basic state and employer contribution rate for the school employees' retirement system. The minimum contribution rate for the plans 2 and 3 employer normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employer normal cost as calculated under the entry age normal cost method.

(3) Beginning September 1, 2009, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the basic state and employer contribution rate for the teachers' retirement system. The minimum contribution rate for the plans 2 and 3 employer normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employer normal cost as calculated under the entry age normal cost method.

(4) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of these minimum contribution rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience.

NEW SECTION. Sec. 4. A new section is added to chapter 41.45 RCW to read as follows:

(1) Beginning July 1, 2009, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the required contribution rate for members of plan 2 of the public employees' retirement system. The minimum contribution rate for the plans 2 and 3 employee normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employee normal cost as calculated under the entry age normal cost method.

(2) Beginning September 1, 2009, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the required contribution rate for members of plan 2 of the school employees' retirement system. The minimum contribution rate for the plans 2 and 3 employee normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employee normal cost as calculated under the entry age normal cost method.

(3) Beginning September 1, 2009, a minimum contribution rate is established for the plans 2 and 3 normal cost as part of the required contribution rate for members of plan 2 of the teachers' retirement system. The minimum contribution rate for the plans 2 and 3 employee normal cost shall equal the total contribution rate required to fund eighty percent of the plans 2 and 3 employee normal cost as calculated under the entry age normal cost method.

(4) Upon completion of each biennial actuarial valuation, the state actuary shall review the appropriateness of these minimum contribution rates and recommend to the legislature any adjustments as may be needed due to material changes in benefits or actuarial assumptions, methods, or experience.

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

Passed by the House February 11, 2006.

Passed by the Senate March 3, 2006.

Approved by the Governor March 31, 2006.

Filed in Office of Secretary of State March 31, 2006.

## CHAPTER 366

[Substitute House Bill 3282]

### HOOD CANAL AQUATIC REHABILITATION ACCOUNT

AN ACT Relating to the Hood Canal aquatic rehabilitation account; and adding a new section to chapter 90.88 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 90.88 RCW to read as follows:

The Hood Canal aquatic rehabilitation account is created in the state treasury. All gifts, grants, federal moneys, or appropriations made to the account must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for programs and projects to protect and restore Hood Canal, including implementing RCW 90.88.020 and 90.88.030.

Passed by the House February 11, 2006.

Passed by the Senate March 7, 2006.

Approved by the Governor March 31, 2006.  
Filed in Office of Secretary of State March 31, 2006.

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**CHAPTER 367**

[Substitute Senate Bill 6188]

**PROSTATE CANCER SCREENING**

AN ACT Relating to health benefit plans offering coverage for prostate cancer screening; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.20 RCW; adding a new section to chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a new section to chapter 48.46 RCW; adding a new section to chapter 48.125 RCW; adding a new section to chapter 70.47 RCW; and adding a new section to chapter 74.09 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 41.05 RCW to read as follows:

(1) Each plan offered to public employees and their covered dependents under this chapter that is not subject to the provisions of Title 48 RCW and is issued or renewed after December 31, 2006, shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of the health care authority to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 2. A new section is added to chapter 48.20 RCW to read as follows:

(1) Each disability insurance policy issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

NEW SECTION. Sec. 3. A new section is added to chapter 48.21 RCW to read as follows:

(1) Each group disability insurance policy issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

**NEW SECTION. Sec. 4.** A new section is added to chapter 48.44 RCW to read as follows:

(1) Each health care service contract issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of a contractor to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

**NEW SECTION. Sec. 5.** A new section is added to chapter 48.46 RCW to read as follows:

(1) Each health maintenance agreement issued or renewed after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) All services must be provided by the health maintenance organization or rendered upon a referral by the health maintenance organization.

(3) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of a health maintenance organization to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services. This section shall not apply to medicare supplemental policies or supplemental contracts covering a specified disease or other limited benefits.

**NEW SECTION. Sec. 6.** A new section is added to chapter 48.125 RCW to read as follows:

(1) Each self-funded multiple employer welfare arrangement established, operated, providing benefits, or maintained in this state after December 31, 2006, that provides coverage for hospital or medical expenses shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of a self-funded multiple

employer welfare arrangement to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services.

**NEW SECTION. Sec. 7.** A new section is added to chapter 70.47 RCW to read as follows:

(1) Any schedule of benefits established or renewed by the Washington basic health plan after December 31, 2006, shall provide coverage for prostate cancer screening, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

(2) This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits, such as deductible or copayment provisions. This section does not limit the authority of the health care authority to negotiate rates and contract with specific providers for the delivery of prostate cancer screening services.

**NEW SECTION. Sec. 8.** A new section is added to chapter 74.09 RCW to read as follows:

The department shall provide coverage for prostate cancer screening under this chapter, provided that the screening is delivered upon the recommendation of the patient's physician, advanced registered nurse practitioner, or physician assistant.

Passed by the Senate March 4, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 31, 2006.

Filed in Office of Secretary of State March 31, 2006.

## CHAPTER 368

[Senate Bill 6248]

### DRAINAGE AND DIKING WORKS

AN ACT Relating to drainage and diking works; and amending RCW 85.07.170 and 47.01.260.

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

**Sec. 1.** RCW 85.07.170 and 1963 c 96 s 1 are each amended to read as follows:

(1) The commissioners of any drainage or diking district shall have power, on behalf of the district, to acquire, place, repair and maintain, dikes and dams, ditches, drains and outlets therefor, together with right of way therefor and access thereto, or obtain rights therein or full or joint use and maintenance thereof, when deemed by them necessary or beneficial for the protection of the district's system or its improvements, by eminent domain, purchase, or contract, with the owners or other districts through their commissioners, or other entities or persons together with power to contract by and with other districts or entities with reference to such matters and their performance.

(2) If the commissioners of any drainage or diking district determine that repair or maintenance is required on any drainage facilities, including dikes and dams, ditches, and drains and outlets, that are on land owned by or under the jurisdiction of the department of transportation, they may give notice in writing to the department requesting that the department make the necessary repair or

maintenance pursuant to the department's obligations under RCW 47.01.260. If the specified repair or maintenance is not conducted by the department within fourteen days upon receipt of the notice, the district commissioners may independently make the repair or maintenance. The department shall then reimburse the district for all reasonable costs incurred by the district associated with the repair or maintenance.

(3) The provisions of this section shall be construed as cumulative and shall not derogate from any other powers authorized by law for such districts.

**Sec. 2.** RCW 47.01.260 and 1983 c 29 s 1 are each amended to read as follows:

(1) The department of transportation shall exercise all the powers and perform all the duties necessary, convenient, or incidental to the planning, locating, designing, constructing, improving, repairing, operating, and maintaining state highways, including bridges and other structures, culverts, and drainage facilities and channel changes necessary for the protection of state highways, and shall examine and allow or disallow bills, subject to the provisions of RCW 85.07.170, for any work or services performed or materials, equipment, or supplies furnished.

(2) Subject to the limitations of RCW 4.24.115, the department, in the exercise of any of its powers, may include in any authorized contract a provision for indemnifying the other contracting party against specific loss or damages arising out of the performance of the contract.

(3) The department is authorized to acquire property as provided by law and to construct and maintain thereon any buildings or structures necessary or convenient for the planning, design, construction, operation, maintenance, and administration of the state highway system and to acquire property and to construct and maintain any buildings, structures, appurtenances, and facilities necessary or convenient to the health and safety and for the accommodation of persons traveling upon state highways.

(4) The department is authorized to engage in planning surveys and may collect, compile, and analyze statistics and other data relative to existing and future highways and highway needs throughout the state, and shall conduct research, investigations, and testing as it deems necessary to improve the methods of construction and maintenance of highways and bridges.

Passed by the Senate March 4, 2006.

Passed by the House February 28, 2006.

Approved by the Governor March 31, 2006.

Filed in Office of Secretary of State March 31, 2006.

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## CHAPTER 369

[Substitute Senate Bill 6617]

### CONSERVATION DISTRICTS—FARM PLANS

AN ACT Relating to verification of the contents of farm plans prepared by conservation districts; amending RCW 42.56.270; adding a new section to chapter 89.08 RCW; and providing an effective date.

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



**NEW SECTION. Sec. 1.** A new section is added to chapter 89.08 RCW to read as follows:

(1) Conservation districts, before developing a farm plan, shall inform the landowner or operator in writing of the types of information that is subject to disclosure to the public under chapter 42.56 RCW. Before completion of the final draft of a farm plan, the district shall send the final draft farm plan to the requesting landowner or operator for verification of the information. The final farm plan shall not be disclosed by the conservation district until the requesting owner or operator confirms the information in the farm plan and a signed copy of the farm plan is received by the conservation district.

(2) For the purposes of this section and RCW 42.56.270, "farm plan" means a plan prepared by a conservation district in cooperation with a landowner or operator for the purpose of conserving, monitoring, or enhancing renewable natural resources. Farm plans include, but are not limited to, provisions pertaining to:

- (a) Developing and prioritizing conservation objectives;
- (b) Taking an inventory of soil, water, vegetation, livestock, and wildlife;
- (c) Implementing conservation measures, including technical assistance provided by the district;
- (d) Developing and implementing livestock nutrient management measures;
- (e) Developing and implementing plans pursuant to business and financial objectives; and
- (f) Recording, or records of, decisions.

**Sec. 2.** RCW 42.56.270 and 2005 c 274 s 407 are each 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 43.163, 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) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license;

(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; ~~(and)~~

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development 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 community, trade, and economic development 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 community, trade, and economic development 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; and

(13)(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 42.17.31923 (as recodified by House Bill No. 2520) and 90.64.190.

NEW SECTION. Sec. 3. Section 2 of this act takes effect July 1, 2006.

Passed by the Senate March 4, 2006.

Passed by the House March 1, 2006.

Approved by the Governor March 31, 2006.

Filed in Office of Secretary of State March 31, 2006.

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## CHAPTER 370

[Substitute Senate Bill 6241]

### TRANSPORTATION BUDGET

AN ACT Relating to transportation funding and appropriations; amending RCW 47.29.170; amending 2005 c 313 ss 1, 102, 104, 105, 106, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 302, 303, 304, 305, 306, 307, 308, 309, 310, 401, 402, 403, 404, 405, 406, 501, and 603 (uncodified); adding new sections to 2005 c 313 (uncodified); making appropriations and authorizing expenditures for capital improvements; repealing 2005 c 313 s 602 (uncodified); and declaring an emergency.

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

### 2005-07 BIENNIUM

**Sec. 1.** 2005 c 313 s 1 (uncodified) is amended to read as follows:

(1) The transportation budget of the state is hereby adopted and, subject to the provisions set forth, the several amounts specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds named to the designated state agencies and offices for employee compensation and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 2007.

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

(a) "Fiscal year 2006" or "FY 2006" means the fiscal year ending June 30, 2006.

(b) "Fiscal year 2007" or "FY 2007" means the fiscal year ending June 30, 2007.

(c) "FTE" means full-time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is not expended subject to the specified conditions and limitations to fulfill the specified purpose shall lapse.

(f) "Reappropriation" means appropriation and, unless the context clearly provides otherwise, is subject to the relevant conditions and limitations applicable to appropriations.

(g) "LEAP" means the legislative evaluation and accountability program committee.

**GENERAL GOVERNMENT AGENCIES—OPERATING**

NEW SECTION. Sec. 101. A new section is added to 2005 c 313 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Motor Vehicle Account—State Appropriation . . . . . \$217,000

**Sec. 102.** 2005 c 313 s 102 (uncodified) is amended to read as follows:

**FOR THE MARINE EMPLOYEES COMMISSION**

Puget Sound Ferry Operations Account—State  
Appropriation . . . . . ~~(\$390,000)~~  
\$394,000

The appropriation in this section is subject to the following conditions and limitations: To address its growing caseload, the marine employees commission shall develop a plan for prioritizing cases to schedule for hearings. The commission shall report back to the transportation committees of the legislature on its case prioritization plan by December 15, 2005.

**Sec. 103.** 2005 c 313 s 104 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

Motor Vehicle Account—State Appropriation . . . . . ~~(\$329,000)~~  
\$330,000

The appropriation in this section is subject to the following conditions and limitations: ~~(\$329,000)~~ \$330,000 of the motor vehicle account—state appropriation is provided solely for costs associated with the motor fuel quality program.

**Sec. 104.** 2005 c 313 s 105 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ARCHEOLOGY AND HISTORIC PRESERVATION**

Motor Vehicle Account—State Appropriation . . . . . ~~(\$200,000)~~  
\$487,000

The appropriation in this section is subject to the following conditions and limitations:

~~(1) ((If Second Substitute Senate Bill No. 5056 is not enacted by June 30, 2005, the entire appropriation shall lapse.~~

~~(2) The entire))~~ \$200,000 of the motor vehicle account—state appropriation is for additional staffing costs to be dedicated to state transportation activities. Furthermore, any staff hired to support transportation activities must have practical experience with complex construction projects.

(2) \$236,000 of the motor vehicle account—state appropriation is provided solely for legal expenses related to the *Lower Elwha Klallam Tribe v. Washington* (graving dock) case.

(3) \$51,000 of the motor vehicle account—state appropriation is provided solely for a pilot project testing remote sensing technology in archeological investigations and surveys for transportation projects.

NEW SECTION. Sec. 105. A new section is added to 2005 c 313 (uncodified) to read as follows:

**FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

Motor Vehicle Account—State Appropriation . . . . . \$50,000

The appropriation in this section is subject to the following conditions and limitations: The total appropriation is provided solely for an evaluation of the current business needs of the legislative transportation fiscal committee staffs with respect to the transportation executive information system (TEIS). The committee shall work with the staffs of the transportation committees, the office of financial management, and the department of transportation to perform the evaluation. Results of the evaluation, including any recommendation for system improvements and usability, shall be submitted to the transportation committees of the legislature and the office of financial management by December 1, 2006.

**GENERAL GOVERNMENT AGENCIES—CAPITAL**

**Sec. 106.** 2005 c 313 s 106 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE PARKS AND RECREATION—CAPITAL PROJECTS**

Motor Vehicle Account—State Appropriation . . . . . \$1,400,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,300,000 of the motor vehicle account—state appropriation is a one-time appropriation and is provided solely for the SR 14 interchange and bridge portion of the Beacon Rock state park entrance road project. Any portion of the appropriation not expended by June 30, 2007, shall revert to the motor vehicle account—state.

(2) \$100,000 of the appropriation is provided solely for road work on state route 20 at Deception Pass state park.

**TRANSPORTATION AGENCIES—OPERATING**

**Sec. 201.** 2005 c 313 s 201 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

Highway Safety Account—State Appropriation . . . . .	<del>(\$2,135,000)</del>
	<u>\$2,145,000</u>
Highway Safety Account—Federal Appropriation . . . . .	<del>(\$15,828,000)</del>
	<u>\$15,833,000</u>
School Zone Safety Account—State Appropriation. . . . .	\$3,300,000
Bicycle and Pedestrian Safety Account—State Appropriation. . . . .	\$40,000
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$21,303,000)</b></del>
	<u><b>\$21,318,000</b></u>

The appropriations in this section are subject to the following conditions and limitations: The Washington traffic safety commission shall contract with the Washington state institute for public policy to conduct a study of the impact of state programs concerning the reduction of DUI recidivism. The study must include, on a prioritized basis to the extent federal funds are made available for

the study, the following components: (1) The state's existing deferred prosecution program; (2) the state's vehicle impound program; and (3) other states' programs that restrict a person's access to the vehicle, or suspend the vehicle license and registration, upon arrest or conviction.

The completed study must be submitted to the appropriate legislative committees by December 1, 2006.

Sec. 202. 2005 c 313 s 202 (uncodified) is amended to read as follows:

**FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account—State Appropriation . . . . .	(\$821,000)
	<u>\$823,000</u>
Motor Vehicle Account—State Appropriation . . . . .	(\$1,942,000)
	<u>\$1,950,000</u>
County Arterial Preservation Account—State Appropriation . . . . .	(\$777,000)
	<u>\$780,000</u>
TOTAL APPROPRIATION . . . . .	(\$3,540,000)
	<u>\$3,553,000</u>

Sec. 203. 2005 c 313 s 203 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Urban Arterial Trust Account—State Appropriation . . . . .	(\$1,624,000)
	<u>\$1,630,000</u>
Transportation Improvement Account—State Appropriation . . . . .	(\$1,625,000)
	<u>\$1,632,000</u>
TOTAL APPROPRIATION . . . . .	(\$3,249,000)
	<u>\$3,262,000</u>

\*Sec. 204. 2005 c 313 s 204 (uncodified) is amended to read as follows:

**FOR THE BOARD OF PILOTAGE COMMISSIONERS**

Pilotage Account—State Appropriation . . . . .	(\$417,000)
	<u>\$1,020,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$500,000 of the appropriation is provided solely for stipends to trainees in the training program as set forth in rules adopted by the board; however, if Engrossed Substitute Senate Bill No. 6870 (pilot trainees stipends) is enacted by June 30, 2006, then \$600,000 of the total appropriation provided in this act shall lapse and the appropriation provided in Engrossed Substitute Senate Bill No. 6870 shall govern.

\*Sec. 204 was vetoed. See message at end of chapter.

Sec. 205. 2005 c 313 s 205 (uncodified) is amended to read as follows:

**FOR THE JOINT TRANSPORTATION COMMITTEE**

Motor Vehicle Account—State Appropriation . . . . .	(\$1,400,000)
	<u>\$1,679,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) \$200,000 of the total appropriation is provided solely for the joint transportation committee to conduct a finance study of the Washington state ferry system. The purpose of the study is to facilitate policy discussions and decisions by members of the legislature regarding the Washington state ferry

system. The legislature recognizes there is a need within the Washington state ferry system for predictable cash flows, transparency, assessment of organizational structure, verification that the Washington state ferry system is operating at maximum efficiency, and better labor relations. The committee shall report the study to the house of representatives and senate transportation committees by January 1, 2007.

(b) The study must include, at a minimum, a review and evaluation of the ferry system's financial plan, including current assumptions and past studies, in the following areas:

(i) Operating program, including ridership, revenue, and cost forecasts and the accuracy of those forecasts; and

(ii) Capital program, including project scoping, prioritization and cost estimating, project changes including legislative input regarding significant project changes, and performance measures.

(c) In addition to committee members, or their designees, the governor shall appoint a representative for this study. The committee may retain consulting services to assist the committee in conducting the study, including the evaluation of financial, operating, and capital plans. The committee may also appoint other persons to assist with the study.

(2) The joint transportation committee shall conduct a study regarding the feasibility of a statewide uniform motor vehicle excise tax (MVET) depreciation schedule. In addition to committee members, the participants in the study must include at a minimum the following individuals: (a) A representative of a regional transit authority (Sound Transit); (b) a representative of a regional transportation planning organization; (c) the secretary of transportation, or his or her designee; (d) a representative of the attorney general's office; (e) a representative of the department of licensing; and (f) a representative of the financial community. The purpose of the study is to develop an MVET depreciation schedule that more accurately reflects vehicle value but does not hinder outstanding contractual obligations.

(3) Funds provided in this section are sufficient for the committee to administer a study of the most reliable and cost-effective means of providing passenger-only ferry service.

(a) The study shall be guided by a 18 member task force consisting of the chairs and ranking members of the house of representatives and senate transportation committees, a designee of the director of the office of financial management, a member of the transportation commission, a designee of the secretary of transportation, a representative of organized labor, and ten stakeholders to be appointed by the governor as follows: Six representatives of ferry user communities, two representatives of public transportation agencies, and two representatives of commercial ferry operators.

(b) The study shall examine issues including but not limited to the long-term viability of different service providers, cost to ferry passengers, the state subsidies required by each provider, and the availability of federal funding for the different service providers.

(c) By November 30, 2005, the task force shall make its recommendations to the house of representatives and senate transportation committees.

(4) \$450,000 of the motor vehicle account—state appropriation is provided solely to administer a consultant study of the long-term viability of the state's transportation financing methods and sources.

(a) At a minimum, the study must examine the following: (i) The short and long-term viability of the motor fuel tax (both state and federal) as a major source of funding for transportation projects and programs; (ii) the desirability and effectiveness of state-distributed transportation funds for the benefit of local units of government; (iii) the potential for alternative and/or emerging sources of transportation revenues, with particular emphasis on user-based fees and charges; and (iv) trends and implications of debt financing for transportation projects. The scope of work for the study may be expanded to include analysis of other financing issues relevant to the long-term viability of the state's transportation system.

(b) The findings and recommendations must be submitted to the fiscal committees of the legislature by November 1, 2006.

(5) \$75,000 of the motor vehicle account—state appropriation is provided solely for the joint transportation committee to contract for a review of existing research on programs and policies which decrease accidents by teenage drivers, including but not limited to publicly operated driver education and intermediate drivers licensing programs. The institute shall also evaluate the costs and benefits of programs and policies showing the greatest positive impact on teenage driving safety.

(6) The committee shall conduct an evaluation of the department of transportation surface transportation program enhancement grant program. The evaluation will include (a) information about the categories of projects submitted for consideration; (b) a review of the allocation of funds awarded across the categories of STP enhancement eligible activities; (c) a review of the criteria used to score projects; and (d) a finding by the committee whether certain categories of projects are disproportionately funded or unfunded.

Sec. 206. 2005 c 313 s 206 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION COMMISSION**

Motor Vehicle Account—State Appropriation . . . . .	(\$4,607,000)
	<u>\$3,954,000</u>
Multimodal Transportation Account—State	
Appropriation. . . . .	(\$1,150,000)
	<u>\$1,252,000</u>
TOTAL APPROPRIATION . . . . .	(\$5,757,000)
	<u>\$5,206,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,500,000 of the motor vehicle fund account—state appropriation is provided solely for a comprehensive tolling study. The transportation commission, with the technical assistance of the department, must conduct a study of the state's transportation system to determine the feasibility of administering tolls on specific transportation facilities or a network of facilities. This study shall serve as the statewide tolling feasibility study required in Engrossed Substitute House Bill No. 1541, and shall serve as the tolling study



necessary to implement toll facilities within a regional transportation investment district or its successor entity.

(a) The study must include an analysis of the only currently-authorized toll facility, the Tacoma Narrows bridge project. The study findings must include (i) the development of more uniform and equitable policies regarding the distribution of financial obligations imposed on those paying the tolls on the Tacoma Narrows bridge, and (ii) opportunities and options for reducing the outstanding indebtedness on the bridge project, including the possibility of buy-downs and other means of spreading the cost of the project more equitably.

(b) The study element for the benefit of a regional transportation investment district or regional transportation improvement authority must also address the state highway system and other transportation facilities in King, Pierce, and Snohomish counties to determine the feasibility of value pricing on a facility or network of facilities. This study element should: (i) Determine the potential for value pricing to generate revenues for needed transportation facilities; (ii) maximize the efficient operation of facilities and the transportation network; and (iii) provide economic indicators for future system investments. This element of the study must take into account congestion levels, facility and corridor capacity, time of use, economic considerations, and other factors deemed appropriate. The study must recommend any additional laws, rules, procedures, resources, studies, reports, or support infrastructure necessary or desirable before proceeding with the review, evaluation, or implementation of any toll projects or a system-wide, value priced transportation structure.

(c) The study must specifically analyze the potential for a toll facility on SR 704, the cross-base highway located in Pierce county.

(2) ~~(\$2,270,000)~~ \$1,362,000 of the motor vehicle account—state appropriation is provided solely for the transportation performance audit board. ~~((Within this amount, the transportation performance audit board shall conduct a study and make recommendations to the legislature regarding the modification RCW 47.01.012, state transportation goals and benchmarks. In conducting the study, the board shall consider at a minimum: Original recommendations of the Blue Ribbon Commission on Transportation; the current policy goals and benchmark categories; the goals outlined in Substitute House Bill No. 1969; the recent work related to benchmarks completed by the transportation commission and the Washington state department of transportation; the measures review completed by TPAB; and best practices.~~

~~The board shall submit study results, including any legislative recommendations, to the transportation committees of the legislature by January 1, 2006.)~~

(3) \$1,150,000 of the multimodal account—state appropriation is provided solely for a statewide rail capacity and needs analysis. The purpose of this study is to (a) assess the rail freight and rail passenger infrastructure needs in this state; (b) review the current powers, authorities, and interests the state has in both passenger and freight rail; (c) recommend public policies for state participation and ownership in rail infrastructure and service delivery, including but not limited to planning and governance issues; and (d) develop a rail asset management plan. The commission shall report their findings and conclusions of the study to the transportation committees of the legislature by December 1, 2006.

(4) The transportation commission shall implement tolls on the Tacoma Narrows bridge that create an incentive for electronic toll payers.

Sec. 207. 2005 c 313 s 207 (uncodified) is amended to read as follows:

**FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**  
 Motor Vehicle Account—State Appropriation . . . . . ((~~\$664,000~~))  
\$666,000

The appropriation in this section is subject to the following conditions and limitations: The board shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects funded by this act.

Sec. 208. 2005 c 313 s 208 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL—FIELD OPERATIONS BUREAU**  
 State Patrol Highway Account—State Appropriation . . . . . ((~~\$202,530,000~~))  
\$201,063,000  
 State Patrol Highway Account—Federal Appropriation . . . . . \$10,544,000  
 State Patrol Highway Account—Private/Local Appropriation . . . . . \$169,000  
 TOTAL APPROPRIATION . . . . . ((~~\$213,243,000~~))  
\$211,776,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol. The patrol shall report to the house of representatives and senate transportation committees by December 31, 2005, on the use of agency vehicles by officers engaging in the off-duty employment specified in this subsection. The report shall include an analysis that compares cost reimbursement and cost-impacts, including increased vehicle mileage, maintenance costs, and indirect impacts, associated with the private use of patrol vehicles.

(2) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account under RCW 43.79.470 no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund—state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.

(3) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the transportation committees of the senate and house of representatives by December 31st of each year.

(4) The state patrol highway account—state appropriation for DUI reimbursements shall only be spent for pursuit vehicle video cameras,

datamaster DUI testing equipment, tire deflator equipment, and taser guns. The Washington state patrol prior to the issuance of any taser guns will train the troopers on using the equipment. The agency will provide a report to the transportation committees of the senate and house of representatives by December 31st of each year on the occurrences where the taser guns were utilized along with any issues that have been identified.

(5) \$29,000 of the state patrol highway account—state appropriation is provided solely for the implementation of House Bill No. 1469. If House Bill No. 1469 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6) \$5,580,000 of the total appropriation is provided solely for a 3.8% salary increase for commissioned officers effective July 1, 2005, in addition to any other salary increases provided for in this act.

~~((8))~~ (7) The Washington state patrol is authorized to use certificates of participation to fund the King Air aircraft replacement over a term of not more than ten years and an amount not to exceed \$1,900,000.

(8)(a) \$834,000 of the state patrol highway account—state appropriation is provided solely for the collective bargaining agreement reached between the governor and the Washington state patrol troopers association under chapter 438, Laws of 2005. For commissioned troopers and sergeants covered under this section, funding is provided for a 2.6% salary increase effective July 1, 2006. This increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Provisions of the collective bargaining agreement contained in this subsection are described in general terms. Only major economic terms are included in this description. This description does not contain the complete contents of the agreement. Due to the timing challenges in negotiating the initial collective bargaining agreement under chapter 438, Laws of 2005, this agreement was not concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

(b) \$62,000 of the state patrol highway account—state appropriation is provided solely for salary increases for commissioned captains and lieutenants covered under this section, if a new collective bargaining agreement is reached between the governor and the Washington state patrol lieutenants association by July 1, 2006. The amount provided in this subsection is contingent on an agreement being reached by July 1, 2006, and shall be held in reserve status until the agreement is reached. If an agreement is not reached by July 1, 2006, the amount provided in this subsection shall lapse. If an agreement is reached by July 1, 2006, the increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Due to the timing challenges in negotiating a collective bargaining agreement funded under this subsection, the agreement will not have been concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

(9) The Washington state patrol, in consultation with the department of licensing, local law enforcement agencies, and other appropriate organizations, shall study the options for implementing an inspection program for tow truck

operators that are not licensed as registered tow truck operators. This study shall also evaluate prospective sources of funding and the amount of funding necessary for the program. The Washington state patrol shall report to the transportation committees of the legislature by December 1, 2006, on the options, strategies, and recommendations for implementing an inspection program for tow truck operators that are not licensed as registered tow truck operators.

(10) \$2,040,000 of the state patrol highway account—state appropriation is provided solely for eighteen additional commissioned officers in the vessel and terminal security division.

(11) The office of financial management shall conduct a review of the state patrol highway account and report its findings to the legislature by January 1, 2007.

NEW SECTION. Sec. 209. A new section is added to 2005 c 313 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE PATROL—INVESTIGATIVE SERVICES BUREAU**

State Patrol Highway Account—State Appropriation . . . . . \$1,358,000

**Sec. 210.** 2005 c 313 s 209 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL—TECHNICAL SERVICES BUREAU**

State Patrol Highway Account—State Appropriation . . . . . ~~(\$82,748,000)~~  
\$91,359,000

State Patrol Highway Account—Private/Local  
Appropriation . . . . . \$2,008,000

TOTAL APPROPRIATION . . . . . ~~(\$84,756,000)~~  
\$93,367,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$247,000 of the state patrol highway account—state appropriation is provided solely for the implementation of Second Substitute House Bill No. 1188. If Second Substitute House Bill No. 1188 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(2) The Washington state patrol is instructed to work with the risk management division in the office of financial management in compiling the state patrol data for establishing the agency's risk management insurance premiums to the tort claims account. The office of financial management and the Washington state patrol shall submit a report to the transportation committees of the senate and house of representatives by December 31st of each year on the number of claims, estimated claims to be paid, method of calculation, and the adjustment in the premium.

~~(3) (\$6,228,000 of the total appropriation is provided solely for automobile fuel in the 2005-2007 biennium.~~

~~(4))~~ \$8,678,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

~~((5))~~ (4) \$5,254,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

~~((6))~~ (5) \$384,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the patrol.

(6)(a) \$28,000 of the state patrol highway account—state appropriation is provided solely for the collective bargaining agreement reached between the governor and the Washington state patrol troopers association under chapter 438, Laws of 2005. For commissioned troopers and sergeants covered under this section, funding is provided for a 2.6% salary increase effective July 1, 2006. This increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Provisions of the collective bargaining agreement contained in this subsection are described in general terms. Only major economic terms are included in this description. This description does not contain the complete contents of the agreement. Due to the timing challenges in negotiating the initial collective bargaining agreement under chapter 438, Laws of 2005, this agreement was not concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

(b) \$2,000 of the state patrol highway account—state appropriation is provided solely for salary increases for commissioned captains and lieutenants covered under this section, if a new collective bargaining agreement is reached between the governor and the Washington state patrol lieutenants association by July 1, 2006. The amount provided in this subsection is contingent on an agreement being reached by July 1, 2006, and shall be held in reserve status until the agreement is reached. If an agreement is not reached by July 1, 2006, the amount provided in this subsection shall lapse. If an agreement is reached by July 1, 2006, the increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Due to the timing challenges in negotiating a collective bargaining agreement funded under this subsection, the agreement will not have been concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

Sec. 211. 2005 c 313 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—MANAGEMENT AND SUPPORT SERVICES**

Marine Fuel Tax Refund Account—State Appropriation . . . . .	\$3,000
Motorcycle Safety Education Account—State Appropriation . . . . .	\$96,000
Wildlife Account—State Appropriation . . . . .	<del>(\$82,000)</del>
	\$95,000
Highway Safety Account—State Appropriation . . . . .	<del>(\$11,418,000)</del>
	\$11,574,000
Motor Vehicle Account—State Appropriation . . . . .	<del>(\$7,043,000)</del>
	\$7,381,000
DOL Services Account—State Appropriation . . . . .	<del>(\$88,000)</del>
	\$102,000
<del>(Biometric Security Account—State Appropriation . . . . .</del>	<del>\$57,000)</del>
TOTAL APPROPRIATION . . . . .	<del>(\$18,787,000)</del>

\$19,251,000

The appropriations in this section are subject to the following conditions and limitations: \$1,134,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6103. If Engrossed Substitute Senate Bill No. 6103 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

\*Sec. 212. 2005 c 313 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—INFORMATION SERVICES**

Marine Fuel Tax Refund Account—State Appropriation . . . . .	\$2,000
Motorcycle Safety Education Account—State Appropriation . . . . .	\$35,000
Wildlife Account—State Appropriation . . . . .	\$102,000
Highway Safety Account—State Appropriation . . . . .	<del>(\$20,698,000)</del>
	<u>\$22,632,000</u>
Motor Vehicle Account—State Appropriation . . . . .	<del>(\$12,095,000)</del>
	<u>\$12,135,000</u>
Motor Vehicle Account—Private/Local Appropriation . . . . .	\$500,000
DOL Services Account—State Appropriation . . . . .	<del>(\$7,825,000)</del>
	<u>\$5,919,000</u>
<del>((Biometric Security Account—State Appropriation . . . . .</del>	<del>\$728,000)</del>
TOTAL APPROPRIATION . . . . .	<del>(\$41,985,000)</del>
	<u>\$41,325,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall submit a report to the transportation committees of the legislature, detailing the progress made in transitioning from the HP3000 system, by December 30, 2005, and each December 1st thereafter until the project is fully completed.

(2) \$357,000 of the motor vehicle account—state appropriation is provided solely for the implementation of all special license plate bills introduced during the 2005 legislative session and approved by the special license plate review board. The amount provided in this subsection shall be reduced accordingly for any of those bills that are not enacted by June 30, 2005.

(3) \$58,000 of the state wildlife account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 5423. If Substitute Senate Bill No. 5423 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(4) \$145,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6103. If Engrossed Substitute Senate Bill No. 6103 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(5) \$8,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 6287 (parking privileges for persons who are legally blind). If Substitute Senate Bill No. 6287 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(6) \$15,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute House Bill No. 2389 (parking privileges for persons with porphyria). If Substitute House Bill No. 2389 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(7) \$12,000 of the highway safety account—state appropriation is provided solely for the implementation of House Bill No. 2829 (driver training schools). If House Bill No. 2829 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

\*Sec. 212 was partially vetoed. See message at end of chapter.

\*Sec. 213. 2005 c 313 s 212 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES**

Marine Fuel Tax Refund Account—State Appropriation . . . . .	\$26,000
Wildlife Account—State Appropriation . . . . .	<del>(\$626,000)</del>
	\$627,000
Motor Vehicle Account—State Appropriation . . . . .	<del>(\$49,894,000)</del>
	\$51,276,000
Motor Vehicle Account—Private/Local Appropriation . . . . .	\$872,000
DOL Services Account—State Appropriation . . . . .	\$1,146,000
Highway Safety Account—State Appropriation . . . . .	\$404,000
TOTAL APPROPRIATION . . . . .	<del>(\$52,968,000)</del>
	\$54,351,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$247,000 of the motor vehicle account—state appropriation is provided solely for the implementation of all special license plate bills introduced during the 2005 legislative session and approved by the special license plate review board. The amount provided in this subsection shall be reduced accordingly for any of those bills that are not enacted by June 30, 2005.

(2) \$11,000 of the wildlife account—state appropriation is provided solely for the implementation of Engrossed Senate Bill No. 5423. If Engrossed Senate Bill No. 5423 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(3) \$404,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6103. If Engrossed Substitute Senate Bill No. 6103 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(4) \$37,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 6287 (parking privileges for persons who are legally blind). If Substitute Senate Bill No. 6287 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(5) \$5,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Substitute House Bill No. 2389 (parking privileges for persons with porphyria). If Substitute House Bill No. 2389 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(6) The department of licensing, in consultation with the department of transportation, Washington state patrol, local law enforcement agencies, and other appropriate organizations, shall study the feasibility of creating a toll-free

hotline for the public to report violations of accessible parking laws, including RCW 46.16.381 and 46.61.581. A report on the findings of this study is due to the transportation committees of the legislature by December 1, 2006, and shall include recommendations on how to disseminate and publicize information to the public that explains the existence, purpose, and method of accessing such a hotline, and how to partner with appropriate law enforcement agencies in the jurisdiction in which alleged violations occurred. In making recommendations regarding the potential establishment of an accessible parking violation hotline, the department of licensing shall consider how to utilize or partner with existing statewide and regional hotlines.

\*Sec. 213 was partially vetoed. See message at end of chapter.

\*Sec. 214. 2005 c 313 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES**

Motorcycle Safety Education Account—State	
Appropriation. . . . .	(\$3,005,000)
	<u>\$3,006,000</u>
Highway Safety Account—State Appropriation. . . . .	(\$85,051,000)
	<u>\$87,078,000</u>
Highway Safety Account—Federal Appropriation . . . . .	\$8,000
<del>(Biometric Security Account—State Appropriation . . . . .</del>	<del>\$1,523,000)</del>
TOTAL APPROPRIATION . . . . .	(\$89,587,000)
	<u>\$90,092,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$970,000 of the highway safety account—state appropriation is provided solely for the commercial driver license program. The department shall informally report to the transportation committees of the legislature on the progress made in addressing federal audit findings and in implementing the federal motor carrier safety improvement act. Reports shall be made by the following dates: November 1, 2005, and each November 1st thereafter.

(2) \$412,000 of the motorcycle safety and education account—state appropriation is provided solely for the department's motorcycle safety program. The department shall informally report to the transportation committees of the legislature detailing the progress made in implementing national highway traffic safety assessment guidelines. Reports shall be made by the following dates: November 1, 2005, and each November 1st thereafter.

(3) The department of licensing, in consultation with the department of transportation and other stakeholders, shall draft legislation to bring the state into compliance with any federal legislation or rules enacted relative to identification necessary for persons crossing international borders. The department shall report to the transportation committees of the legislature by December 1, 2005, on the recommended legislation for bringing the state into compliance with federal requirements.

(4) \$738,000 of the highway safety account—state appropriation is provided solely for the implementation of House Bill No. 2829 (driver training schools). If House Bill No. 2829 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.



(5) The department shall join in any lawsuits filed by other states seeking funding to implement the provisions of Title II of P.L. 109-13, improved security for driver's license and personal identification cards (Real ID), as passed by Congress May 10, 2005, whenever the department is legally and ethically permitted to do so.

(6) The department shall coordinate with the federally designated organ procurement organization for Washington state to develop instructional materials relating to organ and tissue donation awareness education. The instructional materials shall be provided to each qualifying applicant for an instructor's license or a driver training school license. All costs associated with the development, distribution, and implementation of the instructional materials shall be the responsibility of the foundation established under RCW 46.12.510.

\*Sec. 214 was partially vetoed. See message at end of chapter.

Sec. 215. 2005 c 313 s 214 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TOLL OPERATIONS AND MAINTENANCE—PROGRAM B**

Tacoma Narrows Toll Bridge Account—State Appropriation . . . . .~~(\$8,615,000)~~  
\$8,294,000

Sec. 216. 2005 c 313 s 215 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—INFORMATION TECHNOLOGY—PROGRAM C**

Motor Vehicle Account—State Appropriation . . . . .~~(\$55,941,000)~~  
\$56,295,000  
Motor Vehicle Account—Federal Appropriation . . . . . \$1,973,000  
Puget Sound Ferry Operations Account—State  
Appropriation. . . . .~~(\$8,558,000)~~  
\$8,572,000  
Multimodal Transportation Account—State Appropriation . . . . . \$363,000  
TOTAL APPROPRIATION . . . . .~~(\$66,835,000)~~  
\$67,203,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$850,000)~~ \$800,000 of the motor vehicle account—state appropriation is provided solely for the continued maintenance and support of the transportation executive information system (TEIS). The TEIS shall be enhanced during the ~~(2005)~~ 2006 legislative interim to continue the shift towards a monitoring and reporting system capable of tracking and reporting on major project milestones and measurements. The department shall work with the legislature to identify and define meaningful milestones and measures to be used in monitoring the scope, schedule, and cost of projects. The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in TEIS. The department shall also provide updated information on six project milestones for projects agreed to by the legislature, office of financial management, and the department, and funded with preexisting funds, on a quarterly basis in TEIS.

(2) \$350,000 of the motor vehicle account—state appropriation is provided solely for a financial and capital project system needs assessment for future automation development and enhancements. The completed assessment will identify options which shall be presented to the transportation committees of the senate and the house of representatives by December 31, 2005.

(3) The department shall consult with the office of financial management and the department of information services to ensure that (a) the department's current and future system development is consistent with the overall direction of other key state systems; and (b) when possible, use or develop common statewide information systems to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication.

(4) The department shall review its GPS network services and survey data, and evaluate the added benefits of using real-time data from a regional cooperative GPS network.

(5) The department shall report to the joint transportation committee by November 15, 2006, on the plan for the next phase of the critical applications systems replacement project.

Sec. 217. 2005 c 313 s 216 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION—PROGRAM D—OPERATING**

Motor Vehicle Account—State Appropriation . . . . .((~~\$33,499,000~~))  
\$33,600,000

Sec. 218. 2005 c 313 s 217 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F**

Aeronautics Account—State Appropriation . . . . .((~~\$5,632,000~~))  
\$7,137,000  
Aeronautics Account—Federal Appropriation . . . . . \$2,150,000  
~~((Aircraft Search and Rescue Safety and Education Account—State Appropriation . . . . . \$262,000))~~  
Multimodal Transportation Account—State Appropriation . . . . . \$100,000  
Multimodal Transportation Account—Federal Appropriation . . . . . \$900,000  
TOTAL APPROPRIATION . . . . .((~~\$9,044,000~~))  
\$10,287,000

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) \$433,000 of the aeronautics account—state appropriation is provided solely for airport pavement projects. The department's aviation division shall complete a priority airport pavement project list by January 1, 2006, to be considered by the legislature in the 2006 supplemental budget. If Substitute Senate Bill No. 5414 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(b) ~~((The entire aircraft search and rescue safety and education account appropriation shall lapse if Substitute Senate Bill No. 5414 is enacted by June 30, 2005.~~

(~~e~~)) If Substitute Senate Bill No. 5414 is enacted by July 1, 2005, then the remaining unexpended fund balance in the aircraft search and rescue, safety, and education account shall be deposited into the state aeronautics account.

(2) The entire multimodal transportation account—state and federal appropriations are provided solely for implementing Engrossed Substitute Senate Bill No. 5121. If Engrossed Substitute Senate Bill No. 5121 is not enacted by June 30, 2005, or if federal funds are not received by March 1, 2006, for the purpose of implementing Engrossed Substitute Senate Bill No. 5121, the amount provided in this subsection shall lapse.

Sec. 219. 2005 c 313 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM DELIVERY MANAGEMENT AND SUPPORT—PROGRAM H**

Motor Vehicle Account—State Appropriation . . . . .	<del>(\$48,961,000)</del>
	<u>\$52,828,000</u>
Motor Vehicle Account—Federal Appropriation . . . . .	\$500,000
Multimodal Account—State Appropriation . . . . .	\$250,000
TOTAL APPROPRIATION . . . . .	<del>(\$49,711,000)</del>
	<u>\$53,578,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$300,000 of the motor vehicle account—state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely for the purposes of providing contract services to the association of Washington cities and Washington state association of counties for (a) activities of the transportation permit efficiency and accountability committee, including pilot mitigation banking activities, and (b) other permit delivery efforts.

(2) ~~(\$1,475,000)~~ \$1,775,000 of the motor vehicle account—state appropriation is provided solely for the staffing activities of the transportation permit efficiency and accountability committee.

(3) \$3,500,000 of the motor vehicle account—state appropriation is provided solely for consultant contracts to assist the department in the delivery of the capital construction program by identifying improvements to program delivery, program management, project controls, program and project monitoring, forecasting, and reporting. The consultants shall work with the department of information services and include department of information services' recommendations in their reports.

The consultants shall develop a capital construction strategic plan, due to the transportation committees of the house of representatives and senate and to the office of financial management, by June 30, 2006.

The consultants shall also coordinate their work with other budget and performance efforts, including Roadmap, the joint transportation committee budget study, the findings of the critical applications modernization and integration strategies study, including proposed next steps, and the priorities of government process.

The department shall report to the transportation committees of the house of representatives and senate, and the office of financial management, by July 31, 2006, on recommended capital budgeting and reporting options. Options must

include appropriate project groupings for reporting purposes, and appropriate measures for reporting project progress, timeliness, cost, and criteria and processes for project transfers.

Sec. 220. 2005 c 313 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—ECONOMIC PARTNERSHIPS—PROGRAM K**

Motor Vehicle Account—State Appropriation . . . . .((~~\$1,068,000~~))  
\$1,072,000

Sec. 221. 2005 c 313 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M**

Motor Vehicle Account—State Appropriation . . . . .((~~\$296,648,000~~))  
\$299,720,000  
Motor Vehicle Account—Federal Appropriation . . . . . \$1,426,000  
Motor Vehicle Account—Private/Local Appropriation . . . . . \$4,315,000  
TOTAL APPROPRIATION . . . . .((~~\$302,389,000~~))  
\$305,461,000

The appropriations in this section are subject to the following conditions and limitations:

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account—state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account—private/local appropriation.

(4) Funding is provided for maintenance on the state system to allow for a continuation of the level of service targets included in the 2003-05 biennium. In delivering the program, the department should concentrate on the following areas:

(a) Meeting or exceeding the target for structural bridge repair on a statewide basis;

(b) Eliminating the number of activities delivered in the "f" level of service at the region level;

(c) Reducing the number of activities delivered in the "d" level of service by increasing the resources directed to those activities on a statewide and region basis; and

(d) Evaluating, analyzing, and potentially redistributing resources within and among regions to provide greater consistency in delivering the program statewide and in achieving overall level of service targets.

(5) The department shall develop and implement a plan to improve work zone safety on a statewide basis. As part of the strategy included in the plan, the department shall fund equipment purchases using a portion of the money from the annual OTEF equipment purchasing and replacement process. The department shall also identify and evaluate statewide equipment needs (such as work zone safety equipment) and prioritize any such needs on a statewide basis. Substitute purchasing at the statewide level, when appropriate, shall be utilized to meet those identified needs. The department must report to the transportation committees of the legislature by December 1, 2005, on the plan, and by December 1, 2006, on the status of implementing the plan.

Sec. 222. 2005 c 313 s 221 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING**

Motor Vehicle Account—State Appropriation . . . . .	<del>(\$42,811,000)</del>
	<u>\$43,847,000</u>
Motor Vehicle Account—Federal Appropriation . . . . .	\$2,050,000
Motor Vehicle Account—Private/Local Appropriation . . . . .	\$128,000
TOTAL APPROPRIATION . . . . .	<del>(\$44,989,000)</del>
	<u>\$46,025,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$4,400,000 of the motor vehicle account—state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis.

Sec. 223. 2005 c 313 s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S**

Motor Vehicle Account—State Appropriation . . . . .	<del>(\$25,434,000)</del>
	<u>\$25,516,000</u>
Motor Vehicle Account—Federal Appropriation . . . . .	\$30,000
Puget Sound Ferry Operations Account—State	
Appropriation. . . . .	\$1,321,000
Multimodal Transportation Account—State Appropriation . . . . .	\$973,000
TOTAL APPROPRIATION . . . . .	<del>(\$27,758,000)</del>
	<u>\$27,840,000</u>

Sec. 224. 2005 c 313 s 223 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION PLANNING, DATA, AND RESEARCH—PROGRAM T**

Motor Vehicle Account—State Appropriation . . . . .	<del>(\$22,390,000)</del>
	<u>\$24,052,000</u>
Motor Vehicle Account—Federal Appropriation . . . . .	\$16,756,000
Multimodal Transportation Account—State Appropriation . . . . .	<del>(\$2,267,000)</del>
	<u>\$2,279,000</u>
Multimodal Transportation Account—Federal	
Appropriation. . . . .	\$2,829,000

Multimodal Transportation Account—Private/Local	
Appropriation . . . . .	\$100,000
Transportation Partnership Account—State	
Appropriation . . . . .	<del>(\$6,000,000)</del>
	<u>\$2,300,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$50,342,000)</del>
	<u>\$48,316,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) In order to qualify for state planning funds available to regional transportation planning organizations under this section, a regional transportation planning organization containing any county with a population in excess of one million shall provide voting membership on its executive board to any incorporated principal city of a metropolitan statistical area within the region, as designated by the United States census bureau, and to any incorporated city within the region with a population in excess of eighty thousand as of July 1, 2005. Additionally, a regional transportation planning organization described under this subsection shall conduct a review of its executive board membership criteria to ensure that the criteria appropriately reflects a true and comprehensive representation of the organization's jurisdictions of significance within the region.

~~((3)) \$2,000,000 of the transportation partnership account state appropriation is provided solely for the costs of the regional transportation investment district (RTID) election and department of transportation project oversight. These funds are provided as a loan to the RTID and shall be repaid to the state motor vehicle account within one year following the certification of the election results related to the RTID. If either Engrossed Substitute House Bill No. 2157 or Senate Bill No. 6089 are enacted by June 30, 2005, the amount provided in this subsection shall lapse. None of this appropriation may be used for election expenses for an election held before January 1, 2006.~~

~~((4))~~ (2) \$175,000 of the motor vehicle account—state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department to support the processing and analysis of the backlog of city and county collision reports by January 2006. The amount provided in this subsection shall lapse if federal funds become available for this purpose.

~~((5))~~ (3) \$150,000 of the multimodal transportation account—state appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 1565. If Engrossed Second Substitute House Bill No. 1565 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((6))~~ (4) The department of transportation shall evaluate the number of spaces available for long-haul truck parking relative to current and projected future needs. The department of transportation shall also explore options for augmenting the number of spaces available, including, but not limited to, expanding state-owned rest areas or modifying regulations governing the use of these facilities, utilizing weigh stations and park and ride lots, and encouraging the expansion of the private sector's role. Finally, the department shall explore

the utility of coordinating with neighboring states on long-haul truck parking and evaluate methodologies for alleviating any air quality issues relative to the issue. The department must report to the transportation committees of the legislature by December 1, 2005, on the options, strategies, and recommendations for long-haul truck parking.

~~((7))~~ (5) \$50,000 of the multimodal transportation account—state appropriation is provided solely for evaluating high-speed passenger transportation facilities and services, including rail or magnetic levitation transportation systems, to connect airports as a means to more efficiently utilize airport capacity, as well as connect major population and activity centers. This evaluation shall be coordinated with the airport capacity and facilities market analysis conducted pursuant to Engrossed Substitute Senate Bill No. 5121 and results of the evaluation shall be submitted by July 1, 2007. If Engrossed Substitute Senate Bill No. 5121 is not enacted by June 30, 2005, or if federal funds are not received by March 1, 2006, for the purpose of implementing Engrossed Substitute Senate Bill No. 5121, the amount provided in this subsection shall lapse.

(6) \$700,000 of the motor vehicle account—state appropriation is provided solely for completing funding for a route development plan of U.S. route 2.

(7) The department shall conduct a study of the resources allocated to each of the seven department regions and the corresponding workloads. Given the magnitude of the investments in the Puget Sound region, particular emphasis shall be given to reviewing the resources allocated and corresponding workloads with respect to the urban corridors region and the northwest region. Based on the results of this study, the department shall submit recommendations by December 1, 2006, to the legislature and the office of financial management regarding reallocating resources and revising regional boundaries within the department, as appropriate, in order to better coincide allocated resources with designated regional boundaries.

(8) \$750,000 of the multimodal transportation account—state appropriation is provided solely for implementing Engrossed Substitute House Bill No. 2871. If Engrossed Substitute House Bill No. 2871 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse. The regional transportation commission's duties to develop, complete, and submit a governance proposal to the 2007 legislature are highly time sensitive. As a result, the legislature finds that competitive bidding is not cost-effective or appropriate for personal service contracts entered into by the commission, and that the director of the office of financial management should, by the director's authority under RCW 39.29.011(5), exempt any such personal service contract from the competitive bidding requirements of chapter 39.29 RCW.

(9) \$2,300,000 of the transportation partnership account—state appropriation is provided solely for the costs of the regional transportation investment district (RTID) and department of transportation project oversight. The department shall provide support from its urban corridors region to assist in preparing project costs, expenditure plans, and modeling. The department shall not deduct a management reserve, nor charge management or overhead fees. These funds are provided as a loan to the RTID and shall be repaid to the state motor vehicle account within one year following the certification of the election results related to the RTID.

(10) \$100,000 of the motor vehicle account—state appropriation is provided solely to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely to conduct an analysis of expanding the transportation concurrency requirements prescribed under the growth management act, chapter 36.70A RCW, to include development impacts on level of service standards applicable to state-owned transportation facilities, including state highways and state ferry routes. The objective of the analysis is to determine how to ensure that jurisdictional divisions do not defeat growth management act concurrency goals. The department shall convene a committee to oversee the analysis, with the committee comprised of, at a minimum, four members of the transportation committees of the legislature, four members of the appropriate land use committees of the legislature, and one member each from the association of Washington cities and the Washington state association of counties, or a designee thereof. The completed study, including recommendations, must be submitted to the appropriate standing committees of the legislature, and to the office of financial management, by December 1, 2006.

(11) The department of transportation, the Washington state economic revenue forecast council, and the office of financial management shall review and adopt a method of forecasting motor vehicle and special fuel prices, revenue, and the amount of consumption that has an increased rate of accuracy as compared to the existing method. The three agencies shall submit a report to the transportation committees of the legislature by December 1, 2006, outlining the methods researched and the criteria utilized to select and adopt the new fuel forecasting method.

(12) \$150,000 of the multimodal transportation account—state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

Sec. 225. 2005 c 313 s 224 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM OTHER AGENCIES—PROGRAM U**

Motor Vehicle Account—State Appropriation . . . . .	(\$45,030,000)
	<u>\$46,874,000</u>
Motor Vehicle Account—Federal Appropriation . . . . .	\$400,000
TOTAL APPROPRIATION . . . . .	(\$45,430,000)
	<u>\$47,274,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$31,749,000 of the motor vehicle fund—state appropriation is provided solely for the liabilities attributable to the department of transportation. The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.



(2) Payments in this section represent charges from other state agencies to the department of transportation.

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT DIVISION OF RISK MANAGEMENT FEES .....	\$1,667,000
(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR.....	<del>(\$1,017,000)</del>
	<u>\$1,026,000</u>
(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES.....	\$4,049,000
(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL .....	<del>(\$3,572,000)</del>
	<u>\$4,548,000</u>
(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION.....	\$31,749,000
(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE .....	\$1,717,000
(g) FOR ARCHIVES AND RECORDS MANAGEMENT .....	\$545,000
(h) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS ENTERPRISES .....	<del>(\$1,114,000)</del>
	<u>\$1,124,000</u>
(i) FOR PAYMENT OF THE DEPARTMENT OF PERSONNEL HRMS PAYROLL SYSTEM .....	\$817,000
(j) FOR PAYMENT OF THE OFFICE OF FINANCIAL MANAGEMENT ROADMAP CHARGES.....	\$12,000
(k) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT CAPITAL BUDGET SYSTEM CHARGES .....	\$15,000
(l) FOR PAYMENT OF DEPARTMENT OF INFORMATION SERVICES RATE INCREASES .....	\$5,000

**Sec. 226.** 2005 c 313 s 225 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC  
TRANSPORTATION—PROGRAM V**

Multimodal Transportation Account—State	
Appropriation.....	<del>(\$62,269,000)</del>
	<u>\$87,233,000</u>
Multimodal Transportation Account—Federal	
Appropriation.....	\$2,603,000
Multimodal Transportation Account—Private/Local	
Appropriation.....	\$155,000
TOTAL APPROPRIATION .....	<del>(\$65,027,000)</del>
	<u>\$89,991,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$25,000,000 of the multimodal transportation account—state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2003 as reported in the "Summary of Public Transportation - 2003" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions. The first \$450,000 provided to King county shall be used as follows:

(i) \$320,000 shall be used to provide electric buses, instead of diesel buses, for service on Capital Hill in Seattle, Washington through June 30, 2007;

(ii) \$130,000 shall be used to provide training for blind individuals traveling through Rainier Valley and the greater Seattle area. The training is to include destination training and retraining due to the expected closure of the downtown bus tunnel and training on how to use the Sound Transit light rail system.

(2) Funds are provided for the rural mobility grant program as follows:

(a) \$7,000,000 of the multimodal transportation account—state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2003 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$7,000,000 of the multimodal transportation account—state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(3) ~~(\$5,000,000)~~ \$8,900,000 of the multimodal transportation account—state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; no operating costs for public transit agencies are eligible for funding under this grant program. No additional employees may be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. Additional criteria for selecting grants must include leveraging funds other than state funds.

(4) \$3,000,000 of the multimodal transportation account—state appropriation is provided solely for the city of Seattle for the Seattle streetcar project on South Lake Union. ~~((Should the city receive any state funds for this purpose during the 2003-05 or 2005-07 biennium, the amount provided in this subsection must be reduced accordingly.))~~

(5) \$1,200,000 of the multimodal transportation account—state appropriation is provided solely for the implementation of Engrossed Substitute

House Bill No. 2124. If Engrossed Substitute House Bill No. 2124 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6)(a) \$20,000,000 of the multimodal transportation account—state appropriation is provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2006-D, Regional Mobility Grant Program Projects as developed March 8, 2006. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. When funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout, the department shall expeditiously extend new grant awards to qualified alternative projects identified on the list.

(b) Pursuant to the grant program established in (~~Engrossed Substitute House Bill No. 2124~~) RCW 47.66.030, the department shall issue a call for projects and/or service proposals. Applications must be received by the department by November 1, 2005, and November 1, 2006. The department must submit a prioritized list for funding to the transportation committees of the legislature that reflects the department's recommendation, as well as, a list of all project or service proposals received.

(7) \$2,000,000 of the multimodal transportation account—state appropriation is provided solely for new tri-county connection service for Island, Skagit, and Whatcom transit agencies.

(8) \$2,000,000 of the multimodal transportation account—state appropriation is provided solely to King county as a state match to obtain federal funding for a car sharing program for persons meeting certain income or employment criteria.

(9) \$750,000 of the multimodal transportation account—state appropriation is provided solely for the implementation of the local government and regional transportation planning requirements in Engrossed Substitute Senate Bill No. 6566 (commute trip reduction). The department may use contract or temporary employees to implement the bill and shall allocate the remaining funds to regional transportation planning organizations, counties, and cities on an as needed basis. If Engrossed Substitute Senate Bill No. 6566 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(10) \$200,000 of the multimodal account appropriation is provided solely for up to three low-income car ownership programs. The department shall seek to leverage available federal funds from the job access and reverse commute program to augment the funding provided in this subsection. Additionally, the department shall report back to the appropriate committees of the legislature with a review of the obstacles presented by state laws on surplus property disposal to community organizations reconditioning cars and selling those cars at below market rates to low-income families.

**Sec. 227.** 2005 c 313 s 226 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X**

Puget Sound Ferry Operations Account—State	
Appropriation. . . . .	(((\$350,454,000))
	<u>\$372,254,000</u>
Multimodal Transportation Account—State	
Appropriation. . . . .	\$3,660,000
TOTAL APPROPRIATION . . . . .	(((\$354,114,000))
	<u>\$375,914,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) (((\$57,928,000)) \$75,280,000 of the total appropriation is provided solely for auto ferry vessel operating fuel in the 2005-2007 biennium.

(2) ~~((The total appropriation provides for the compensation of ferry employees. The expenditures for compensation paid to ferry employees during the 2005-2007 biennium may not exceed \$222,356,000, plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$584.58 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2006 and \$584.58 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for fiscal year 2007, a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges, and a dollar amount prescribed by the office of financial management for salary increases during the 2005-2007 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2).))~~ The maximum amount of expenditures for compensation paid to ferry employees during the 2005-2007 biennium shall not exceed \$226,455,000. This amount reflects the sole source of state funding available to support the implementation of any collective bargaining agreements or arbitration awards with respect to state ferry employee compensation, including salaries, wages, and employee benefits, during the 2005-2007 biennium, which amount includes \$6,223,000 in full satisfaction of the arbitration awards for the 2001-2003 biennium and \$1,339,000 for labor productivity gains agreements. The department's use of this expenditure authority constitutes a good faith attempt to implement such agreements and awards, including those applicable to prior biennia. It is the intent of the legislature that the expenditure authority provided in this subsection fully satisfy any agreements or awards required to be implemented during the 2005-2007 biennium, and that the provisions of Substitute House Bill No. 3178 (marine employees collective bargaining) will govern the implementation of agreements or awards effective beginning with the 2007-2009 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's state administrative and accounting manual, chapter 75.70, named under objects of expenditure "A" and "B".

(3) \$1,116,000 of the Puget Sound ferry operations account—state appropriation is provided solely for ferry security operations necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard. The department shall track security costs and expenditures. Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery.

(4) The Washington state ferries must work with the department's information technology division to implement an electronic fare system, including the integration of the regional fare coordination system (smart card). Each December and June, semi-annual updates must be provided to the transportation committees of the legislature concerning the status of implementing and completing this project, with updates concluding the first December after full project implementation.

(5) The Washington state ferries shall continue to provide service to Sidney, British Columbia.

(6) \$3,660,000 of the multimodal transportation account—state appropriation is provided solely to provide passenger-only ferry service. The ferry system shall continue passenger-only ferry service from Vashon Island to Seattle ~~((through June 30, 2007))~~ until such time as a county ferry district's assumption of the route, as authorized by Substitute Senate Bill No. 6787. Beginning September 1, 2005, ferry system management shall implement its agreement with the Inlandboatmen's Union of the Pacific and the International Organization of Masters, Mates and Pilots providing for part-time passenger-only work schedules. ~~((Funds may not be spent to implement the results of the passenger-only ferry study conducted by the joint transportation committee provided in section 205 of this act until approved by the legislature.))~~

(7) \$350,000 of the Puget Sound ferry operations account—state appropriation is provided solely for the implementation of Substitute House Bill No. 3178 (marine employees collective bargaining). If Substitute House Bill No. 3178 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**Sec. 228.** 2005 c 313 s 227 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING**

Multimodal Transportation Account—State

Appropriation. . . . .~~(((\$36,420,000))~~  
\$36,876,000

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) \$29,091,000 of the multimodal transportation account—state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service. Upon completion of the rail platform project in the city of Stanwood, the department shall provide daily Amtrak Cascades service to the city.

(b) The department shall negotiate with Amtrak and Burlington Northern Santa Fe to adjust the Amtrak Cascades schedule to leave Bellingham at a significantly earlier hour.

(2) \$2,750,000 of the multimodal transportation account—state appropriation is provided solely for a new round trip rail service between Seattle and Portland beginning July 1, 2006.

(3) No AMTRAK Cascade runs may be eliminated.

(4) (~~(\$200,000)~~) \$40,000 of the multimodal transportation account—state appropriation is provided solely for the produce railcar program. The department is encouraged to implement the produce railcar program by maximizing private investment.

(5) \$500,000 of the multimodal transportation account—state appropriation is provided solely for a study of the realignment of highway and rail in the Longview industrial area (SR 432) corridor, specifically regarding whether the construction of a limited access bypass highway to reduce congestion resulting from anticipated growth in future rail and truck traffic, is a feasible alternative. In conducting the study, the department shall consult port districts, local government planning staff, and rail road companies, and other appropriate stakeholders.

(6) \$60,000 of the multimodal transportation account—state appropriation is provided solely for a study of the need for transloading capabilities in the West Plains area that could be served by the Geiger Spur, including evaluation of prospective transloader sites, potential operators and users, and the type, size, and special needs of shippers/customers. The study must also evaluate the costs associated with building and operating a transloader site and the impact to local roadways and surrounding land uses. In conducting the study, the department shall consult with Spokane County.

Sec. 229. 2005 c 313 s 228 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING**

Motor Vehicle Account—State Appropriation . . . . .	<del>(\$7,947,000)</del>
	<u>\$8,500,000</u>
Motor Vehicle Account—Federal Appropriation . . . . .	\$2,597,000
Multimodal Transportation Account—State Appropriation . . . . .	<del>(\$211,000)</del>
	<u>\$411,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$10,755,000)</del>
	<u>\$11,508,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$211,000 of the motor vehicle account—state appropriation and (~~(\$211,000)~~) \$411,000 of the multimodal transportation account—state appropriation are provided solely for the state's contribution to county and city studies of flood hazards in association with interstate highways. First priority shall be given to threats along the I-5 corridor.

(2) \$525,000 of the motor vehicle account—state appropriation is provided solely to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely for contract services with the association of Washington cities and the Washington state association of counties for improving transportation permitting and mitigation processes.

**TRANSPORTATION AGENCIES—CAPITAL**

**Sec. 301.** 2005 c 313 s 302 (uncodified) is amended to read as follows:

**FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account—State Appropriation . . . . .	<del>(\$67,933,000)</del>
	<u>\$64,933,000</u>
Motor Vehicle Account—State Appropriation . . . . .	\$355,000
County Arterial Preservation Account—State Appropriation . . . . .	<del>(\$30,392,000)</del>
	<u>\$32,697,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$98,680,000)</del>
	<u>\$97,985,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$355,000 of the motor vehicle account—state appropriation is provided for county ferries as set forth in RCW 47.56.725(4).

**Sec. 302.** 2005 c 313 s 303 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Urban Arterial Trust Account—State Appropriation . . . . .	<del>(\$99,425,000)</del>
	<u>\$101,425,000</u>
Small City Preservation and Sidewalk Account—State Appropriation . . . . .	\$2,000,000
Transportation Improvement Account—State Appropriation . . . . .	<del>(\$103,601,000)</del>
	<u>\$94,401,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$205,026,000)</del>
	<u>\$197,826,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The transportation improvement account—state appropriation includes up to \$14,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500. ~~((The transportation improvement board may authorize the use of current revenues available to the agency in lieu of bond proceeds for any part of the state appropriation.))~~

(2) \$2,000,000 of the small city preservation and sidewalk account—state appropriation is provided to fund the provisions of chapter 83, Laws of 2005 (Substitute Senate Bill No. 5775).

**Sec. 303.** 2005 c 313 s 304 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—PROGRAM D  
(DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)—  
CAPITAL**

Motor Vehicle Account—State Appropriation . . . . .	<del>(\$2,492,000)</del>
	<u>\$2,328,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) ~~(\$601,000)~~ \$584,000 of the motor vehicle account—state appropriation is provided solely for ~~(the)~~ statewide administration.

(2) \$632,000 of the motor vehicle account—state appropriation is provided solely for regional minor projects.

(3) ~~(\$224,000)~~ \$305,000 of the motor vehicle account—state appropriation is provided solely for designing the replacement of the existing outdated maintenance facility in Ephrata.

(4) ~~(\$219,000)~~ \$239,000 of the motor vehicle account—state appropriation is provided solely for the designing of the northwest regional maintenance complex in Seattle.

(5) ~~(\$833,000)~~ \$568,000 of the motor vehicle account—state appropriation is provided solely for the Olympic region headquarters project.

(a) The department of transportation is authorized to use certificates of participation for the financing of the Olympic region project in the amount of \$34,874,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW.

(b) The Washington state department of transportation may utilize the design-build process in accordance with chapter 39.10 RCW for the Olympic region project. If the design-build process is used, it may be developed in partnership with the department of general administration.

\*Sec. 304. 2005 c 313 s 305 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I**

Transportation 2003 Account (Nickel Account)—State	
Appropriation . . . . .	<del>(\$1,175,004,000)</del>
	<u>\$1,190,511,000</u>
Motor Vehicle Account—State Appropriation . . . . .	<del>(\$70,359,000)</del>
	<u>\$85,165,000</u>
Motor Vehicle Account—Federal Appropriation . . . . .	<del>(\$229,036,000)</del>
	<u>\$395,043,000</u>
Motor Vehicle Account—Private/Local Appropriation . . . . .	<del>(\$33,893,000)</del>
	<u>\$58,522,000</u>
Special Category C Account—State Appropriation . . . . .	<del>(\$3,419,000)</del>
	<u>\$3,479,000</u>
Tacoma Narrows Toll Bridge Account Appropriation . . . . .	<del>(\$272,329,000)</del>
	<u>\$274,038,000</u>
Transportation Partnership Account—State	
Appropriation . . . . .	<del>(\$519,786,000)</del>
	<u>\$384,186,000</u>
<u>Multimodal Transportation Account—State</u>	
Appropriation . . . . .	<u>\$1,002,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$2,303,826,000)</del>
	<u>\$2,391,946,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1)(a) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document ~~((2005-6))~~ 2006-1, Highway Improvement Program (I) as developed ~~((April 24, 2005))~~ March 8, 2006. However, limited



transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(b) Within the amounts provided in this subsection, ~~(((\$5,000,000)) \$6,835,000~~ of the transportation partnership account—state appropriation ~~((is provided solely))~~, ~~\$5,002,000~~ of the transportation 2003 account (nickel account)—state appropriation, and ~~\$2,645,000~~ of the motor vehicle account—federal appropriation are for project ~~((109040S))~~ 109040T: I-90/Seattle to Mercer Island – Two way transit/HOV. Expenditure of these funds on construction is contingent upon the development of an access plan that provides equitable and dependable access for I-90 Mercer Island exit and entry.

(c) Within the amounts provided in this subsection, \$500,000 of the transportation partnership account—state appropriation is ~~((provided solely))~~ for a west Olympia access study, to complete an access study for state route 101/ west Olympia.

(d) Within the amounts provided in this subsection, \$800,000 of the transportation partnership account—state appropriation is ~~((provided solely))~~ for an SR 534 access point decision report.

(f) Within the amounts provided within this subsection, ~~(((\$435,000,000)) \$6,000,000~~ of the transportation partnership account—state appropriation is ~~((provided solely))~~ for project 509009B: I-90 Snoqualmie Pass East - Hyak to Keechelus dam. However, if the preferred alternative selected for this project results in a lower total project cost, the remaining funds may be used for concrete rehabilitation on I-90 in the vicinity of this project.

(g) Within the amounts provided in this subsection, \$12,841,000 of the transportation 2003 account (nickel account)—state appropriation and \$4,939,000 of the transportation partnership account—state appropriation are for construction of a new interchange on SR 522 to provide direct access to the University of Washington Bothell/Cascadia community college joint campus. This appropriation assumes an additional \$8,061,000 will be provided in the 2007-09 biennium from the transportation partnership account.

(h) Within the amounts provided in this subsection, \$19,262,149 of the motor vehicle account—federal appropriation and \$1,873,478 of the transportation 2003 account (nickel account) appropriation are for project 154302E: SR 543 (I-5 to the international boundary).

(2) The motor vehicle account—state appropriation includes ~~(((\$53,000,000)) up to \$50,000,000~~ in proceeds from the sale of bonds authorized by RCW 47.10.843. ~~((The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.))~~

(3) ~~((The department shall not commence construction on any part of the SR 520 bridge project until agreements have been reached with the incorporated towns or cities that represent the communities affected by the SR 520 project. The agreements must provide reasonable assurance that no further degradation will occur to the citizens' current use and enjoyment of their properties as a result of repairs and improvements made to the SR 520 bridge and its connecting roadways. Such assurances may be achieved through engineering design choices, mitigation measures, or a combination of both.))~~ The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached

providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

(4) The transportation partnership account—state appropriation includes ~~(((\$400,000,000))~~ up to \$150,000,000 in proceeds from the sale of bonds authorized ~~((by Substitute House Bill No. 2311 (or the version as enacted into law))~~ in RCW 47.10.873. ~~((The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.))~~

(5) The Tacoma Narrows toll bridge account—state appropriation includes up to \$257,016,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The Tacoma Narrows toll bridge account—state appropriation includes ~~(((\$15,313,000))~~ up to \$17,022,000 in unexpended proceeds from the ~~((January 2003))~~ March 2005 bond sale authorized in RCW 47.10.843 for the Tacoma Narrows bridge project.

(6) The transportation 2003 account (nickel account)—state appropriation includes ~~(((\$940,000,000))~~ up to \$880,000,000 in proceeds from the sale of bonds authorized by chapter 147, Laws of 2003. ~~((The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.))~~

~~((7))~~ To manage some projects more efficiently, federal funds may be transferred from program Z to program I and replaced with state funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2006.

~~((8))~~ (7) The department shall, on a quarterly basis beginning July 1, 2005, provide to the office of financial management and the legislature reports providing the status on each project in the project lists submitted pursuant to this act ((and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium)). Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

~~((9))~~ (8) The department of transportation shall conduct an analysis of the causes of traffic congestion on I-5 in the vicinity of Fort Lewis and develop recommendations for alleviating the congestion. The department must report to

the transportation committees of the legislature by December 1, 2005, on its analysis and recommendations regarding traffic congestion on I-5 in the vicinity of Fort Lewis.

~~((10))~~ (9) The department of transportation is authorized to proceed with the SR 519 Intermodal Access project if the city of Seattle has not agreed to a project configuration or design by July 1, 2006.

~~((12) \$13,000,000 of the transportation 2003 account (nickel account)—state appropriation and \$5,000,000 of the transportation partnership account—state appropriation are provided solely for construction of a new interchange on SR 522 to provide direct access to the University of Washington Bothell/Cascadia community college joint campus. This appropriation assumes an additional \$8,000,000 will be provided in the 2007-09 biennium from the transportation partnership account.))~~

(10) The motor vehicle account—state appropriation includes up to \$14,214,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.843.

(11) The special category C account—state appropriation includes up to \$1,710,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.812.

(12) The department should consider using mitigation banking on appropriate projects whenever possible, without increasing the cost to projects. The department should consider using the advanced environmental mitigation revolving account (AEMRA) for corridor and watershed based mitigation opportunities, in addition to project specific mitigation.

(13) \$500,000 of the motor vehicle account—state appropriation is provided solely for a planning study regarding congestion mitigation improvements on state route 101 in the vicinity of the city of Aberdeen.

(14) \$6,200,000 of the motor vehicle account—federal appropriation is provided solely for eastern Washington international border crossing and freight mobility projects, including pavement preservation, pavement structural strengthening, and other safety enhancements. Projects shall include funding for U.S. route 97 international border vicinity paving and improvement projects.

(15) \$3,509,738 of the motor vehicle account—federal appropriation and \$30,793 of the motor vehicle account—state appropriation are provided solely for project 100598C: I-5 Blaine Exit interchange improvements.

**(16) \$250,000 of the transportation 2003 (nickel) account appropriation within the SR 520 project funding for project design is provided solely for the city of Seattle to prepare a plan for addressing the impacts of the SR 520 bridge replacement and HOV project on Seattle neighborhoods, parks, and institutions of higher education. In evaluating the project's impacts, the city shall give great weight to the concerns of neighborhoods and institutions of higher education impacted by design proposals. The mayor and council shall convene the advisory committee. The mayor and council shall have final approval of the plan. The legislature intends that the plan will allow a comprehensive approach to mitigating the impacts of the project and that the city presents the plan to the state department of transportation. The state department of transportation shall not commence construction on any part of the SR 520 bridge replacement and HOV project until agreements have been reached with the city, consistent with the 520 expansion impact plan.**

The city must designate representation from the community council of each neighborhood impacted by the SR 520 bridge replacement and HOV project and representation from the arboretum to serve on an advisory committee to guide the planning process and plan preparation of the 520 expansion impact plan. The University of Washington shall designate a representative to serve on the advisory committee. The secretary of the state department of transportation shall designate a representative to serve on the advisory committee. The funds provided may be spent to contract with a consultant to: (a) Facilitate the activities of the advisory committee; (b) analyze impacts of alternative designs; (c) perform conceptual design work on proposals made by the advisory committee; and (d) prepare mitigation plans for alternative design concepts.

(17) The legislature recognizes that the finance and project implementation planning processes required for the Alaskan Way viaduct and Seattle Seawall replacement project and the SR 520 bridge replacement and HOV project cannot guarantee appropriate decisions unless key study assumptions are reasonable with respect to each project.

To assure appropriate finance plan and project implementation plan assumptions, an expert review panel shall be appointed to provide independent financial and technical review for development of a finance plan and project implementation plan for the projects described in this subsection.

(a) The expert review panel shall consist of five to ten members who are recognized experts in relevant fields, such as planning, engineering, finance, law, the environment, emerging transportation technologies, geography, and economics.

(b) The expert review panel shall be selected cooperatively by the chairs of the senate and house transportation committees, the secretary of the department of transportation, and the governor to assure a balance of disciplines.

(c) The chair of the expert review panel shall be designated by the governor.

(d) The expert panel shall, with respect to completion of the project alternatives as described in the draft environmental impact statement of each project:

(i) Review the finance plan for the project to ensure that it clearly identifies secured and anticipated funding sources and is feasible and sufficient;

(ii) Review the project implementation plan covering all state and local permitting and mitigation approvals that ensure the most expeditious and cost-effective delivery of the project; and

(iii) Report its findings and recommendations on the items described in (d)(i) and (ii) of this subsection to the joint transportation committee, the office of financial management, and the governor no later than September 1, 2006.

(e) Upon receipt of the expert review panel's findings and recommendations under (d)(iii) of this subsection, the governor must make a finding of whether each finance plan is feasible and sufficient to complete the project as described in the draft environmental impact statement.

(f) Nothing in this section shall be interpreted to delay construction of any of the projects referenced in this subsection.

(18)(a) Prior to commencing construction on either project, the department of transportation must complete all of the following requirements for both the Alaskan Way viaduct and Seattle Seawall replacement project, and the state

route number 520 bridge replacement and HOV project: (i) In accordance with the national environmental policy act, the department must designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate review using the department's cost estimate validation process, for each project; (ii) in accordance with all applicable federal highway administration planning and project management requirements, the department must prepare a project finance plan for each project that clearly identifies secured and anticipated fund sources, cash flow timing requirements, and project staging and phasing plans if applicable; and (iii) the department must report these results for each project to the joint transportation committee.

(b) The requirements of this subsection shall not apply to (i) utility relocation work, and related activities, on the Alaskan Way viaduct and Seattle Seawall replacement project and (ii) off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

\*Sec. 304 was partially vetoed. See message at end of chapter.

Sec. 305. 2005 c 313 s 306 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
PRESERVATION—PROGRAM P**

Transportation 2003 Account (Nickel Account)—State	
Appropriation. . . . .	<del>(\$10,622,000)</del>
	<u>\$1,687,000</u>
Motor Vehicle Account—State Appropriation . . . . .	<del>(\$76,824,000)</del>
	<u>\$94,799,000</u>
Motor Vehicle Account—Federal Appropriation . . . . .	<del>(\$404,360,000)</del>
	<u>\$435,310,000</u>
Motor Vehicle Account—Private/Local Appropriation . . . . .	<del>(\$6,656,000)</del>
	<u>\$8,485,000</u>
Puyallup Tribal Settlement Account—State	
Appropriation. . . . .	\$11,000,000
Transportation Partnership Account—State	
Appropriation. . . . .	<del>(\$139,533,000)</del>
	<u>\$24,540,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$648,995,000)</b></del>
	<u><b>\$575,821,000</b></u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document ~~((2005-6))~~ 2006-1, Highway Preservation Program (P) as developed ~~((April 24, 2005))~~ March 8, 2006. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

~~((a) Within the amounts provided in this subsection, \$139,033,000 of the transportation partnership account state appropriation is provided solely for implementation of structures preservation (P2) projects.~~

~~(b) Within the amounts provided in this subsection, \$500,000 of the transportation partnership account—state appropriation is provided solely for implementation of other facilities (P3) projects.)~~

(2) \$11,000,000 of the Puyallup tribal settlement account—state appropriation is provided solely for mitigation costs associated with the Murray Morgan/~~((41st))~~ 11th Street Bridge demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street Bridge to the city. The department may use the Puyallup tribal settlement account appropriation, as well as any funds appropriated in the current biennium and planned in future biennia for the demolition and mitigation for the demolition of the bridge to rehabilitate or replace the bridge, if agreed to by the city. In no event shall the department's participation exceed \$26,500,000 and no funds may be expended unless the city of Tacoma agrees to take ownership of the bridge in its entirety and provide that the payment of these funds extinguishes any real or implied agreements regarding future expenditures on the bridge.

(3) ~~(((\$11,590,000))~~ \$740,000 of the motor vehicle account—state appropriation, ~~(((\$95,299,000))~~ \$106,149,000 of the motor vehicle account—federal appropriation, and ~~(((\$113,591,000))~~ \$10,305,000 of the transportation partnership account—state appropriation are provided solely for the Hood Canal bridge project.

(4) The motor vehicle account—state appropriation includes ~~(((\$530,000))~~ up to \$735,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes.

(5) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

~~(6) ((To manage some projects more efficiently, federal funds may be transferred from program Z to program P and replaced with state funds in a dollar for dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2006.~~

~~(7))~~ The department shall, on a quarterly basis beginning July 1, 2005, provide to the office of financial management and the legislature reports providing the status on each project in the project lists submitted pursuant to this act ~~((and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium)).~~ Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(7) The motor vehicle account—state appropriation includes up to \$912,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.843.

(8) The motor vehicle account—state appropriation includes up to \$6,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.

(9) \$4,000,000 of the motor vehicle account—federal appropriation and \$6,000,000 of the motor vehicle account—state appropriation are for expenditures on damaged state roads due to flooding, mudslides, rock fall, or other unforeseen events. Slide repair on state routes 101, 4, 107, and 105 must be funded from this amount if federal emergency funds are not available.

**Sec. 306.** 2005 c 313 s 307 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—CAPITAL**

Motor Vehicle Account—State Appropriation . . . . .	<del>(\$17,519,000)</del>
	<u>\$17,555,000</u>
Motor Vehicle Account—Federal Appropriation . . . . .	\$15,068,000
Motor Vehicle Account—Local Appropriation . . . . .	\$108,000
TOTAL APPROPRIATION . . . . .	<del>(\$32,695,000)</del>
	<u>\$32,731,000</u>

The appropriations in this section are subject to the following conditions and limitations: The motor vehicle account—state appropriation includes \$11,255,000 for state matching funds for federally selected competitive grant or congressional earmark projects other than the commercial vehicle information systems and network. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

**\*Sec. 307.** 2005 c 313 s 308 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W**

Puget Sound Capital Construction Account—State	
Appropriation. . . . .	<del>(\$153,184,000)</del>
	<u>\$122,324,000</u>
Puget Sound Capital Construction Account—Federal	
Appropriation. . . . .	<del>(\$59,967,000)</del>
	<u>\$73,590,000</u>
Puget Sound Capital Construction Account—Private/Local	
Appropriation. . . . .	\$26,000
Multimodal Transportation Account—State Appropriation . . . . .	\$13,249,000
Transportation 2003 Account (Nickel Account)—State	
Appropriation. . . . .	<del>(\$34,987,000)</del>
	<u>\$34,991,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$261,413,000)</del>
	<u>\$244,180,000</u>

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel construction, major and minor vessel preservation, and terminal preservation, construction, and improvements. The appropriations in this section are subject to the following conditions and limitations:

(1) The Puget Sound capital construction account—state appropriation includes ~~(((\$72,000,000))~~ up to \$40,950,000 in proceeds from the sale of bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries. ~~((The transportation commission may authorize the use of current revenues available to the motor vehicle account in lieu of bond proceeds for any part of the state appropriation.))~~

(2) The multimodal transportation account—state appropriation includes up to \$10,249,000 in proceeds from the sale of bonds authorized by RCW 47.10.867. ~~((The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds from any part of the state appropriation.))~~

(3) \$15,617,000 of the Puget Sound capital construction account—state appropriation is provided solely for the Eagle Harbor Terminal Preservation project.

(4) The entire transportation 2003 account (nickel account) appropriation and \$10,249,000 of the multimodal transportation account—state appropriation are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document ~~((2005-6))~~ 2006-1, Ferries Construction Program (W) as developed ~~((April 24, 2005))~~ March 8, 2006. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(5) The department shall, on a quarterly basis beginning July 1, 2005, provide to the office of financial management and the legislature reports providing the status on each project in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

(6) \$3,000,000 of the multimodal transportation account—state appropriation is provided solely ~~((to implement approved recommendations of the stakeholder task force convened to study the most reliable and cost effective means of providing passenger-only ferry service. The funds provided in this subsection shall be placed in reserve by the office of financial management. The funds may not be released until approved by the legislature))~~ for passenger-only projects. Projects may include vessel or terminal projects or costs associated with selling vessels.

(7) The multimodal transportation account—state appropriation includes up to \$1,170,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.867.

*(8) \$37,117,000 of the Puget Sound capital construction account—state appropriation is for the initial procurement of four 144-vehicle auto-passenger ferry vessels using the process outlined in Substitute Senate Bill No. 6853 and is contingent upon the enactment of Substitute Senate Bill No. 6853.*

\*Sec. 307 was partially vetoed. See message at end of chapter.

**Sec. 308.** 2005 c 313 s 309 (uncodified) is amended to read as follows:



**FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL**

Essential Rail Assistance Account—State Appropriation . . . . .	\$250,000
Multimodal Transportation Account—State	
Appropriation. . . . .	<del>(\$67,158,000)</del>
	<u>\$68,176,000</u>
Multimodal Transportation Account—Private/Local	
Appropriation. . . . .	\$8,287,000
Multimodal Transportation Account—Federal	
Appropriation. . . . .	<del>(\$11,966,000)</del>
	<u>\$17,268,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$88,161,000)</del>
	<u>\$93,981,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The multimodal transportation account—state appropriation includes up to \$33,435,000 in proceeds from the sale of bonds and up to \$830,000 in unexpended bond proceeds authorized by RCW 47.10.867. ~~((The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.))~~

(2) If federal block grant funding for freight or passenger rail is received, the department shall consult with the transportation committees of the legislature prior to spending the funds on additional projects.

(3)(a) ~~(\$67,158,000)~~ \$68,176,000 of the multimodal transportation account—state appropriation, ~~(\$11,966,000)~~ \$17,268,000 of the multimodal transportation account—federal appropriation, \$8,287,000 of the multimodal transportation account—local appropriation, and \$250,000 of the essential rail assistance account are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document ~~((2005-2))~~ 2006-C, Rail Capital Program (Y) as developed ((April 23, 2005)) March 8, 2006. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(b) Within the amounts provided in this subsection, \$6,500,000 of the multimodal transportation account—state appropriation is ~~((provided solely))~~ for the two commuter rail projects listed in the LEAP Transportation Document ~~((2005-6))~~ 2006-C, Rail Capital Program (Y) as developed ((April 24, 2005)) March 8, 2006.

(c) The office of financial management shall negotiate the purchase of the CW line. The purchase agreement must include both the operating and capital rights of the CW line. If the office of financial management is unable to negotiate the purchase of the CW line, the office may stop all negotiations and acquire the line and operational rights through any other alternative means available. The office of financial management shall also negotiate a new operational agreement for the line, in consultation with local governments and other stakeholders.

(d) The office of financial management shall negotiate the purchase of the operating rights of the P&L and PV Hooper lines. If the office of financial

management is unable to negotiate the purchase of the operating rights of the P&L and PV Hooper lines, the office may stop all negotiations and acquire the operating rights through any other alternative means available. The office of financial management shall also negotiate new operational agreement(s) for the P&L and PV Hooper lines in consultation with local governments and other stakeholders.

(e) In order to maintain the operation of the Palouse River & Coulee City rail lines, the office of financial management is authorized to negotiate an agreement wherein they may forgive all or part of the existing freight rail assistance loan to the current operator of the Palouse River & Coulee City rail lines in exchange for good and valuable consideration.

(4) If the department issues a call for projects, applications must be received by the department by November 1, 2005, and November 1, 2006.

(5) \$50,000 of the multimodal transportation account—state appropriation is provided solely for a study of eastern Skagit county freight rail. The study shall examine the feasibility of restoring portions of freight rail line to the towns of Lyman, Hamilton, and Concrete. The study must also identify existing and potential industrial sites available for development and redevelopment, and the freight rail service needs of the identified industrial sites.

(6) The department shall finalize and issue the Amtrak Cascades long range plan update as of the effective date of this act.

(7) Funds provided for the Tacoma rail improvement project may be expended for preconstruction engineering.

(8) \$2,500,000 of the multimodal transportation account—state appropriation is provided solely for a rail loop at the Port of Walla Walla.

\*Sec. 309. 2005 c 313 s 310 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL**

Highway Infrastructure Account—State Appropriation . . . . .	\$207,000
Highway Infrastructure Account—Federal Appropriation . . . . .	\$1,602,000
Motor Vehicle Account—Federal Appropriation . . . . .	<del>(\$18,221,000)</del>
	<u>\$48,998,000</u>
Motor Vehicle Account—State Appropriation . . . . .	<del>(\$6,702,000)</del>
	<u>\$8,340,000</u>
<u>Transportation Partnership Account—State Appropriation . . . . .</u>	<u>\$2,008,000</u>
Freight Mobility Investment Account—State	
Appropriation . . . . .	<del>(\$12,000,000)</del>
	<u>\$6,000,000</u>
<u>Passenger Ferry Account—State Appropriation . . . . .</u>	<u>\$9,000,000</u>
Multimodal Transportation Account—State	
Appropriation . . . . .	<del>(\$36,002,000)</del>
	<u>\$39,403,000</u>
<u>Transportation 2003 Account (nickel account)—State</u>	
Appropriation . . . . .	<u>\$557,000</u>
<u>Freight Mobility Multimodal Account—State</u>	
Appropriation . . . . .	<u>\$9,700,000</u>
<u>TOTAL APPROPRIATION . . . . .</u>	<u><del>(\$74,734,000)</del></u>
	<u>\$125,815,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the ~~((transportation commission))~~ office of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2006.

(2) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists distributed with this act, and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium, except for projects managed by the freight mobility strategic investment board. The department shall work with the transportation committees of the legislature to agree on report formatting and elements. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(3) The multimodal transportation account—state appropriation includes up to \$6,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.867. ~~((The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.))~~

(4) ~~((\$3,545,000))~~ \$1,545,000 of the multimodal transportation account—state appropriation is reappropriated and provided solely to fund the multiphase cooperative project with the state of Oregon to dredge the Columbia River. The amount provided in this subsection shall lapse unless the state of Oregon appropriates a dollar-for-dollar match to fund its share of the project.

(5) ~~((\$274,000))~~ \$206,000 of the motor vehicle account—state appropriation is reappropriated and provided solely for additional traffic and pedestrian safety improvements near schools. The highways and local programs division within the department of transportation shall administer this program. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded traffic and pedestrian safety improvement grant funds, but does not report activity on the project within one year of grant award should be reviewed by the department to determine whether the grant should be terminated. The department must promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. The department shall expeditiously extend new grant awards to qualified projects when funds become available either because

grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout.

(6) The motor vehicle account—state appropriation includes up to \$905,000 in unexpended proceeds from the sale of bonds authorized by RCW 47.10.843.

(7) (~~(\$867,000)~~) \$607,000 of the multimodal transportation account—state appropriation is reappropriated and provided solely to support the safe routes to school program.

(8) (~~(\$18,221,000)~~) \$16,110,000 of the motor vehicle account—federal appropriation is provided solely for the local freight capital projects in progress identified in this subsection. The specific funding listed is provided solely for the respective projects: SR 397 Ainsworth Ave. Grade Crossing, (~~(\$5,180,000)~~) \$4,992,000; Colville Alternate Truck Route, (~~(\$2,000,000)~~) \$1,746,000; S. 228th Street Extension and Grade Separation, \$6,500,000; Bigelow Gulch Road-Urban Boundary to Argonne Rd., \$2,000,000; Granite Falls Alternate Route, (~~(\$1,791,000)~~) \$122,000; and Pacific Hwy. E./Port of Tacoma Road to Alexander, \$750,000.

(9) (~~(\$3,400,000)~~) \$2,898,000 of the motor vehicle account—state appropriation is provided solely for the local freight capital projects in progress identified in this subsection. The specific funding listed is provided solely for the respective projects: Duwamish Intelligent Transportation Systems (ITS), (~~(\$2,520,000)~~) \$2,382,000; Port of Kennewick/Piert Road, (~~(\$520,000; SR 397 Ainsworth Ave. Grade Crossing, \$360,000)~~) \$516,000.

(10) \$6,000,000 of the multimodal account—state appropriation is provided solely for the local freight 'D' street grade separation project.

(11) The department (~~must~~) shall issue a call for pedestrian safety projects, such as safe routes to schools and transit, and bicycle and pedestrian paths. Applications must be received by the department by November 1, 2005, and November 1, 2006. The department shall identify cost-effective projects, and submit a prioritized list to the legislature for funding by December 15th of each year. Recommendations made to the legislature for safe routes to schools and bicycle and pedestrian path projects must, to the extent practicable based on available funding, allocate sixty percent of available funds to bicycle and pedestrian path projects and forty percent to safe routes to schools. Preference (~~will~~) shall be given to projects that provide a local match. (~~The grant recipients may only be governmental entities.~~)

(12) (~~(\$19,540,000)~~) \$18,370,000 of the multimodal transportation account—state appropriation, \$6,000,000 of the freight mobility multimodal account—state appropriation, \$2,008,000 of the transportation partnership account—state appropriation, and (~~(\$12,000,000)~~) \$6,000,000 of the freight mobility investment account—state appropriation are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document (~~(2005-6)~~) 2006-1, Local Programs (Z) as developed (~~(April 24, 2005)~~) March 8, 2006. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(13) \$870,000 of the multimodal transportation account—state appropriation is provided solely for the Yakima Avenue, 9th Street to Front Street, pedestrian safety improvement project.

(14) \$5,000,000 of the multimodal transportation account—state appropriation and \$2,000,000 of the motor vehicle account—federal appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified on the LEAP Transportation Document 2006-B, Pedestrian and Bicycle Safety Program Projects and Safe Routes to Schools Program Projects as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. When funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout, the department shall expeditiously extend new grant awards to qualified alternative projects identified on the list.

(15) \$9,700,000 of the motor vehicle account—federal appropriation is provided solely for the intersection and corridor safety program projects as identified on the LEAP Transportation Document 2006-A, Intersection and Corridor Safety Program Projects as developed March 8, 2006.

(16) \$19,500,000 of the motor vehicle account—federal appropriation is provided solely for rural county two-lane roadway pilot projects including \$7,500,000 already under contract. Any further allocations shall be prioritized by the department based on high-accident-corridor criteria. For purposes of this subsection, "high-accident-corridor" means a highway corridor of one mile or more where analysis of collision history indicates that the section has higher than average collision and severity factors.

(17) \$2,500,000 of the motor vehicle account—state appropriation is provided solely for the Yakima downtown futures initiative.

(18) \$810,000 of the multimodal transportation account—state appropriation is provided solely for the projects identified in this subsection: Des Moines creek trail, \$250,000; SR 282 to Port of Ephrata connector, \$385,000; Mount Baker Ridge viewpoint, \$175,000.

**(19) Regional transportation planning organizations that receive federal surface transportation program funding shall develop and adhere to a strategy for selecting projects based on regional priorities such as growth management, congestion relief, safety, economic development, or other regional priorities which support state and federal policies. The legislature further intends that the federal funds be applied to the prioritized strategic regional transportation projects rather than by formulaic distribution methods. These funds shall not be used for administrative costs. Regional transportation planning organizations shall report the results of their project selection processes to the department by November 15, 2006, specifically outlining their adopted strategy and how their selected projects support regional priorities. The department shall provide a full and transparent accounting of all federal surface transportation program funds received and expected to be received by the state**

under the new federal surface transportation act, and its proposed distribution, and as soon as possible make this information available to regional transportation planning organizations and the legislature. The department shall also report to the legislative transportation committees by December 31, 2006, as to how the regional project selection processes support regional priorities, and how these regionally selected projects support state and federal policies.

(20) \$688,000 of the motor vehicle account—federal appropriation is provided solely for completion of the Coal Creek Parkway project.

(21) \$9,000,000 of the passenger ferry account—state appropriation is provided solely for the implementation of the passenger-only ferry grant program created in Substitute Senate Bill No. 6787. If Substitute Senate Bill No. 6787 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

\*Sec. 309 was partially vetoed. See message at end of chapter.

**TRANSFERS AND DISTRIBUTIONS**

**Sec. 401.** 2005 c 313 s 401 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES; FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE**

Highway Bond Retirement Account Appropriation . . . . .	(\$354,913,000)
	<u>\$334,313,000</u>
Nondebt-Limit Reimbursable Account Appropriation . . . . .	(\$8,775,000)
	<u>\$6,091,000</u>
Ferry Bond Retirement Account Appropriation . . . . .	(\$39,010,000)
	<u>\$38,241,000</u>
Transportation Improvement Board Bond Retirement Account—State Appropriation . . . . .	(\$30,899,000)
	<u>\$30,923,000</u>
Motor Vehicle Account—State Appropriation . . . . .	(\$2,562,000)
	<u>\$682,000</u>
Transportation Improvement Account—State Appropriation . . . . .	(\$105,000)
	<u>\$120,000</u>
Multimodal Transportation Account—State Appropriation . . . . .	(\$303,000)
	<u>\$370,000</u>
Transportation 2003 Account (Nickel Account) Appropriation . . . . .	(\$19,177,000)
	<u>\$6,600,000</u>
<u>Transportation Partnership Account—State Appropriation . . . . .</u>	<u>\$1,125,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>(\$455,744,000)</b>
	<u>\$418,465,000</u>

**Sec. 402.** 2005 c 313 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES**

Motor Vehicle Account—State Appropriation . . . . .	<del>(\$283,000)</del>
	<u>\$248,000</u>
Transportation Improvement Account—State Appropriation . . . . .	\$13,000
Multimodal Transportation Account—State Appropriation . . . . .	<del>(\$96,000)</del>
	<u>\$35,000</u>
Transportation 2003 Account (Nickel Account)—State Appropriation . . . . .	<del>(\$2,400,000)</del>
	<u>\$2,200,000</u>
Transportation Partnership Account—State Appropriation . . . . .	<del>(\$2,800,000)</del>
	<u>\$375,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$5,592,000)</del>
	<u>\$2,871,000</u>

**Sec. 403.** 2005 c 313 s 403 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS**

(1) Motor Vehicle Account—State Reappropriation:

For transfer to the Tacoma Narrows toll bridge account . . . . .	\$257,016,000
--	---------------

The department of transportation is authorized to sell up to \$257,016,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.

(2) Motor Vehicle Account—State Appropriation:

For transfer to the Puget Sound capital construction account . . . . .	<del>(\$72,000,000)</del>
	<u>\$40,950,000</u>

The department of transportation is authorized to sell up to ~~(\$72,000,000)~~ \$40,950,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

**Sec. 404.** 2005 c 313 s 404 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties . . . . .	<del>(\$450,757,000)</del>
	<u>\$487,612,000</u>

**Sec. 405.** 2005 c 313 s 405 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—TRANSFERS**

Motor Vehicle Account—State  
 Appropriation: For motor vehicle fuel tax  
 refunds and transfers . . . . .((\$820,769,000))  
\$1,037,342,000

Sec. 406. 2005 c 313 s 406 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TRANSFERS**

- (1) RV Account—State Appropriation:  
 For transfer to the Motor Vehicle Account—State . . . . . \$2,000,000
- (2) Motor Vehicle Account—State Appropriation:  
 For transfer to Puget Sound Capital Construction  
 Account—State . . . . . \$73,000,000
- (3) Highway Safety Account—State Appropriation:  
 For transfer to the Motor Vehicle Account—State . . . . .((\$10,000,000))  
\$5,000,000
- (4) Motor Vehicle Account—State Appropriation:  
 For transfer to the Puget Sound Ferry Operations  
 Account—State . . . . .((\$19,087,000))  
\$31,000,000
- (5) Motor Vehicle Account—State Appropriation:  
 For transfer to the Transportation Partnership  
 Account—State . . . . .((\$51,372,000))  
\$33,127,000
- (6) Highway Safety Account—State Appropriation:  
 For transfer to the Multimodal Transportation  
 Account—State . . . . .((\$21,170,000))  
\$25,980,000
- (7) Transportation Partnership Account—State Appropriation:  
 For transfer to the Small City Pavement and Sidewalk  
 Account—State . . . . .((\$2,000,000))  
\$1,000,000
- (8) Transportation Partnership Account—State Appropriation:  
 For transfer to the Transportation Improvement  
 Account—State . . . . .((\$5,000,000))  
\$2,500,000
- (9) Transportation Partnership Account—State Appropriation:  
 For transfer to the ((~~Rural~~) County Arterial  
 ((~~Trust~~) Preservation Account—State . . . . .((\$3,000,000))  
\$1,500,000
- (10) License Plate Technology Account—State Appropriation:  
 For transfer to the Motor Vehicle Account—State . . . . . \$2,500,000
- ~~((11) Motor Vehicle Account—State Appropriation:  
 For transfer to the State Patrol Highway Account—  
 State . . . . . \$1,406,000~~
- ~~(12) Motor Vehicle Account—State Appropriation:  
 For transfer to the Transportation 2003 Account  
 (Nickel Account)—State . . . . . \$461,000~~
- ~~(13))~~ (11) Multimodal Transportation Account—State Appropriation:  
 For transfer to the Transportation Partnership



Account—State . . . . . ((\$29,400,000))  
\$29,417,000

(12) Motor Vehicle Account—State Appropriation:

For transfer to the Freight Mobility Multimodal  
Account—State, up to a maximum of. . . . . \$3,700,000

(13) Multimodal Transportation Account—State Appropriation:

For transfer to the Tacoma Narrows Toll Bridge  
Account—State . . . . . \$1,300,000

(14) Multimodal Transportation Account—State Appropriation:

For transfer to the Freight Mobility Multimodal  
Account—State . . . . . \$4,610,000

The transfers identified in this section are subject to the following conditions and limitations:

(a) The department of transportation shall only transfer funds in subsection (2) of this section up to the level provided, on an as-needed basis.

(b) The amount ((identified in subsection (3) of this section may not include any revenues collected as passenger fares.)) transferred in subsection (12) of this section shall be the same as the Union Pacific Railroad's original contribution, adjusted for earned interest and expenditures, and shall be made on June 30, 2006.

(c) The amount transferred in subsection (14) of this section is the equivalent of the Burlington Northern Santa Fe funds advanced to the SR 519 project and shall be invested in a freight mobility project agreed to by the freight mobility strategic investment board and the BNSF railway if the final design of the SR 519 project does not include the original rail benefit.

**COMPENSATION**

**Sec. 501.** 2005 c 313 s 501 (uncodified) is amended to read as follows:

**EMPLOYEE SALARY COST OF LIVING ADJUSTMENT.** For those funds that support noncapital FTE employees, agency appropriations in sections 101 through 408 of this act provide funding for salary cost of living adjustments subject to the following conditions and limitations:

(1) In addition to the purposes set forth in subsection (2) through (4) of this section, the appropriations for cost of living adjustments provide for a 3.2% increase effective July 1, 2005, for all state employees represented by a collective bargaining unit under the personnel system reform act of 2002.

(2) The appropriations for cost of living adjustments provide for a 3.2% increase effective September 1, 2005, for all classified employees, except those represented by a collective bargaining unit under the personnel system reform act of 2002, and except the certificated employees covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the personnel resources board or the director of personnel, as applicable.

(3) The appropriations are also sufficient to fund a 3.2% salary increase effective September 1, 2005, for ferry system employees and for general government, legislative, and judicial employees exempt from merit system rules

whose maximum salaries are not set by the commission on salaries for elected officials.

(4) The appropriations for cost of living adjustments provide for a 1.6% salary increase effective July 1, 2006, until June 30, 2007, for all state employees represented by a collective bargaining unit under the personnel system reform act of 2002. In addition, appropriation is provided for a 1.6% increase effective September 1, 2006, for all classified employees, except those represented by a collective bargaining unit under the personnel system reform act of 2002, and except the certificated employees covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the personnel resources board or the director of personnel, as applicable. The appropriation is also sufficient to fund a 1.6% salary increase effective September 1, 2006, until June 30, 2007, for ferry system employees and for general government, legislative, and judicial employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials. This subsection shall not apply to Washington state patrol commissioned troopers and sergeants covered under sections 208(8)(a) and 210(6)(a) of this act. If a new collective bargaining agreement is reached between the governor and the Washington state patrol lieutenants association by July 1, 2006, this subsection shall not apply to Washington state patrol commissioned captains and lieutenants covered under sections 208(8)(b) and 210(6)(b) of this act.

(5)(a) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the personnel resources board or the director of personnel, as applicable.

(b) The average salary increases paid under this section to agency officials whose maximum salaries are established by the committee on agency official salaries shall not exceed the average increases provided under subsection (3) of this section.

### IMPLEMENTING PROVISIONS

NEW SECTION. Sec. 601. A new section is added to 2005 c 313 (uncodified) to read as follows:

Executive Order number 05-05, archaeological and cultural resources, was issued effective November 10, 2005. Agencies and higher education institutions that issue grants or loans for capital projects shall comply with the requirements set forth in this executive order.

NEW SECTION. Sec. 602. 2005 c 313 s 602 (uncodified) is repealed.

Sec. 603. 2005 c 313 s 603 (uncodified) is amended to read as follows:

(1) The (~~transportation commission~~) director of the office of financial management may authorize a transfer of spending allocation within the appropriation provided and between projects funded with transportation 2003 account (nickel account) appropriations (~~or the~~), transportation partnership account appropriations, multimodal transportation account appropriations, freight mobility account appropriations, or freight mobility investment account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

(b) Transfers from a project may be made if the funds allocated to the project are in excess of the amount needed to complete the project;

~~((b))~~ (c) Transfers from a project may be made if the project is experiencing unavoidable expenditure delays;

~~((c))~~ (d) Transfers from a project may not be made as a result of the reduction of the scope of a project, nor shall a transfer be made to support increases in the scope of a project;

~~((d))~~ (e) Each transfer between projects may only occur if the ~~((commission))~~ director of the office of financial management finds that any resulting change will not hinder the completion of the projects approved by the legislature; ~~((and~~

~~((e))~~ (f) Transfers may not occur to projects not identified on the applicable project list; and

(g) Transfers may not be made while the legislature is in session.

(2) ~~((A report of the transfers shall be submitted on October 1st of each fiscal year to the senate and house of representatives transportation committees.))~~ At least five working days prior to any transfer, a report of the transfers made to date shall be submitted to the legislative evaluation and accountability program (LEAP). The report must also include a list of monitored projects or transfers currently under consideration by the department, and a financial plan consistent with legislative intent. Within five working days, LEAP shall review the proposed financial plan and report to the joint transportation committee as to whether the expenditures and revenues are sufficient to deliver the projects listed on the most recent legislatively approved project list.

**Sec. 604.** RCW 47.29.170 and 2005 c 317 s 17 are each amended to read as follows:

Before accepting any unsolicited project proposals, the commission must adopt rules to facilitate the acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

(1) Provisions that specify unsolicited proposals must meet predetermined criteria;

(2) Provisions governing procedures for the cessation of negotiations and consideration;

(3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the commission so directed;

(4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and

(5) Provisions that specify the process to be followed if the commission is interested in the concept proposal, which must include provisions:

(a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;

(b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and

(c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The commission may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state.

The commission may not accept or consider any unsolicited proposals before ~~((January 1))~~ June 30, 2007.

MISCELLANEOUS

NEW SECTION. Sec. 701. 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. 702. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Passed by the Senate March 8, 2006.  
 Passed by the House March 8, 2006.  
 Approved by the Governor March 31, 2006, with the exception of certain  
 items that were vetoed.  
 Filed in Office of Secretary of State March 31, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to portions of Sections 204, 212(6), 213(5), 214(5), 304(16),  
 307(8), and 309(19) of Substitute Senate Bill 6241 entitled:

"AN ACT Relating to transportation funding and appropriations."

My reasons for vetoing portions of the above-noted Sections are as follows:

**Section 204, page 6, Board of Pilotage Commissioners, Trainee Stipends**

Section 204 provides additional appropriation authority to the Board of Pilotage Commissioners for  
 pilot trainee stipends. Appropriation authority was provided in Engrossed Substitute Senate Bill  
 6870, which was enacted by the Legislature and signed into law on March 14, 2006. Leaving  
 Section 204 intact would increase the Board of Pilotage Commissioners' appropriation authority

above the intended amount and would exceed the revenue available to the agency. Therefore, I have vetoed Section 204.

**Section 212(6), page 18, Department of Licensing - Information Services, Parking Privileges**

This proviso funds implementation of Substitute House Bill 2389 and stipulates that the appropriation will lapse if the bill is not enacted. Substitute House Bill 2389 did not pass the Legislature. Therefore, I have vetoed Section 212(6).

**Section 213(5), page 19, Department of Licensing - Vehicle Services, Parking Privileges**

This proviso funds implementation of Substitute House Bill 2389 and stipulates that the appropriation will lapse if the bill is not enacted. Substitute House Bill 2389 did not pass the Legislature. Therefore, I have vetoed Section 213(5).

**Section 214(5), pages 20-21, Department of Licensing, Federal Real ID**

Section 214(5) directs the Department of Licensing to join in any lawsuit filed by other states seeking funding to implement the provisions of Title II of P.L. 109-13 (improved security for driver's license and personal identification cards (Federal Real ID Act)) whenever the department is legally and ethically permitted to do so. This language is overly prescriptive. I will engage the federal government on this issue when it is prudent and in the best interest of Washington State to do so. But legal action, whether unilateral or in conjunction with other states, will only be undertaken following a rigorous review of the issues and consultation with the state's Attorney General. Therefore, I have vetoed Section 214(5).

**Section 304(16), pages 47-48, Department of Transportation - Improvements, SR 520 Plan**

Section 304(16) earmarks \$250,000 for the City of Seattle to prepare a State Route 520 expansion impact plan and prohibits the Department of Transportation from beginning construction on the State Route 520 bridge replacement and High Occupancy Vehicle project until agreements have been reached with the City of Seattle. This subsection contradicts Section 304(18), which sets forth the National Environmental Policy Act (NEPA) requirements that the department must designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate. It is incumbent upon the department to follow state and federal environmental laws and not delegate decision making to the City of Seattle. Therefore, I have vetoed Section 304(16).

**Section 307(8), page 54, Department of Transportation - Ferries, Auto-Passenger Ferries**

Section 307(8) provides funding for auto-passenger ferry vessels using the process identified in Substitute Senate Bill 6853, which did not pass the Legislature. While the Legislature considered the ferry vessel procurement process in Substitute Senate Bill 6853, it was not its intent to eliminate funding for ferry vessels. Therefore, I have vetoed Section 307(8) with the understanding that the funding remains available to the Department of Transportation for the procurement of ferry vessels.

**Section 309(19), pages 61-62, Department of Transportation - Local Programs, RTPOs**

Section 309(19) requires regional transportation planning organizations (RTPOs) that receive federal surface transportation program funding to distribute funds based on a prioritized competitive basis rather than by formula. It also prohibits funds from being used for administration. While I strongly support this legislative intent, I believe these changes should be phased in over time in order to avoid disruptions to project programming and delivery. RTPOs are required by federal law to prepare four-year Transportation Improvement Programs. The current transportation improvement program covers calendar years 2006 through 2008. Therefore, I have vetoed Section 309(19).

However, effective with the development of the 2008 Transportation Improvement Programs, I am directing the Department of Transportation to work with RTPOs to ensure that it prioritizes project selections based on regional priorities such as growth management, congestion relief, safety, economic development, or other regional priorities that support state and federal policies. In addition, the department shall retain a full and transparent accounting of all federal surface transportation program funds and their uses.

With the exception of the above-noted portions of Sections 204, 212(6), 213(5), 214(5), 304(16), 307(8), and 309(19), Substitute Senate Bill 6241 is approved."

CHAPTER 371

[Engrossed Substitute Senate Bill 6384]

CAPITAL BUDGET

AN ACT Relating to the capital budget; making appropriations and authorizing expenditures for capital improvements; amending RCW 43.99N.060, 44.28.801, 27.34.330, 43.63A.125, 43.63A.135, and 43.63A.750; amending RCW 43.—.— (section 8, chapter —, Laws of 2006, (E3SHB No. 2939)); amending 2005 c 488 ss 109, 112, 125, 131, 138, 142, 152, 156, 161, 162, 201, 206, 238, 252, 255, 264, 287, 323, 324, 325, 327, 329, 330, 340, 341, 342, 346, 360, 365, 368, 369, 370, 372, 376, 382, 385, 386, 387, 390, 391, 392, 395, 398, 401, 402, 414, 425, 427, 443, 451, 453, 601, 605, 606, 607, 609, 610, 612, 613, 632, 650, 696, 714, 733, 777, 795, 905, 909, and 927 (uncodified); reenacting and amending RCW 27.34.330 and 43.185.050; adding new sections to 2005 c 488 (uncodified); creating new sections; providing an effective date; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. A supplemental capital budget is hereby adopted and, subject to the provisions set forth in this act, the several dollar amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated, are hereby appropriated and authorized to be incurred for capital projects during the period beginning with the effective date of this act and ending June 30, 2007, out of the several funds specified in this act.

SUPPLEMENTAL APPROPRIATIONS

NEW SECTION. Sec. 101. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**  
Life-cycle Cost Model Update (06-2-851)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely to update the life-cycle cost model developed by the joint legislative audit and review committee. The joint legislative audit and review committee shall:

- (1) Update the model's assumptions;
- (2) Enhance the model's ability to inform decision-makers about the current and long-term capital and operating impacts of facility leasing options compared to state ownership; and
- (3) Revise the model to allow for comparisons of alternate financing approaches, including but not limited to the use of certificates of participation, 63-20 financing, and state general obligation bond funding.

Appropriation:

State Building Construction Account—State . . . . .	\$50,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$50,000

NEW SECTION. Sec. 102. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE OFFICE OF THE SECRETARY OF STATE**  
Acquisition of Historic Photographs (06-2-950)

Appropriation:

Archives and Record Management Account—State . . . . .	\$50,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$50,000

Sec. 103. 2005 c 488 s 109 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Drinking Water Assistance Program (06-4-003)

Appropriation:

Drinking Water Assistance Account—State . . . . .	\$8,100,000
Drinking Water Assistance Repayment Account—State . . . . .	(\$11,500,000)
	<u>\$21,780,000</u>
Subtotal Appropriation . . . . .	(\$19,600,000)
	<u>\$29,880,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$78,400,000
TOTAL . . . . .	(\$98,000,000)
	<u>\$108,280,000</u>

Sec. 104. 2005 c 488 s 112 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Building for the Arts (06-4-005)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The appropriation is subject to the provisions of RCW 43.63A.750.
- (2) The appropriation is provided solely for the following list of projects:

<b>Projects</b>	<b>Location</b>	<b>Recommendation</b>
<del>((African American museum</del>	Seattle	<del>\$700,000)</del>
McIntyre hall	Mount Vernon	\$350,000
Northwest film forum	Seattle	\$100,000
Historic Cooper school	Seattle	\$500,000
Merc playhouse	Twisp	\$6,000
Masquers theatre	Soap Lake	\$145,000
Cornish College of the Arts	Seattle	\$700,000
Dahmen barn workshop	Uniontown	\$79,000
Roxy theatre	Morton	\$75,000
Duwamish longhouse	Seattle	\$65,000
Everett symphony	Everett	\$215,000
Admiral theatre	Bremerton	\$180,000



Pratt fine arts center	Seattle	\$300,000
Arlington performing arts	Arlington	\$375,000
Seattle Academy of Fine Art	Seattle	\$35,000
Academy of children's theatre	Richland	\$150,000
Empire theatre	Tekoa	\$25,000
Children's museum	Spokane	\$75,000
World kite museum	Long Beach	\$115,000
McCaw hall	Seattle	\$1,000,000
KidsQuest children's museum	Bellevue	\$200,000
<b>Total</b>		<b><u>(\$5,390,000)</u></b> <b><u>\$4,690,000</u></b>

Appropriation:

State Building Construction Account—State . . . . .	<u>(\$5,390,000)</u>
	<u>\$4,690,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$16,000,000
<b>TOTAL . . . . .</b>	<b><u>(\$21,390,000)</u></b> <b><u>\$20,690,000</u></b>

\*Sec. 105. 2005 c 488 s 125 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Housing Assistance, Weatherization, and Affordable Housing (04-4-003)

The reappropriations in this section ((is)) are subject to the following conditions and limitations:

(1) \$1,700,000 of the reappropriation is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(2) \$700,000 of the reappropriation is provided solely for grants to nonprofit organizations and public housing authorities for revolving loan, self-help housing programs for low and moderate income families.

(3) \$84,500 of the reappropriation is provided solely for shelters, transitional housing, or other housing facilities for victims of domestic violence.

(4) \$600,000 of the reappropriation is provided solely for facilities housing low-income migrant, seasonal, or temporary farmworkers. It is the intent of the legislature that operation of the facilities built under this section be in compliance with 8 U.S.C. Sec. 1342. The department shall work with the farmworker housing advisory committee to prioritize funding of projects to the areas of highest need. Funding may also be provided, to the extent qualified projects are submitted, for health and safety projects.

(5) \$1,400,000 of the reappropriation is provided solely for the development of emergency shelters and transitional housing opportunities for homeless families with children.

~~(6) ((Up to \$1,000,000 of the reappropriation is provided to help capitalize a self-insurance risk pool for nonprofit corporations in Washington that develop housing units for low-income persons and families. The self-insurance risk pool shall be approved by the state risk manager. The self-insurance risk pool shall repay to the state the amount of the reappropriation provided to the risk pool under this section whenever the capitalization exceeds the minimum requirements established by the office of the risk manager. Any reappropriation authority not expended by June 30, 2007, shall lapse-)) (a) \$960,000 of the reappropriation in this section is provided solely for the department to contract with the Washington state housing finance commission to establish a multiunit residential building construction liability revolving fund program to provide supplemental funding for liability claims arising from the construction or rehabilitation of condominium or other multiunit residential buildings, as defined in RCW 64.55.010, that are owned or controlled by nonprofit corporations, as defined in RCW 43.180.300, for developing affordable housing for low-income households. The revolving fund program shall include the following elements:~~

~~(i) Criteria for the eligibility of multiunit residential projects and project owners for participation in the revolving fund program;~~

~~(ii) Provisions governing the scope of coverage and other policies and operating procedures for the revolving fund program;~~

~~(iii) Establishment of premiums to be paid by project owners to ensure the viability of the revolving fund program. Costs incurred by the commission in administering the revolving fund program will be paid or reimbursed from premiums and other program funds;~~

~~(iv) Provisions for the reimbursement of premiums to the extent not required for the orderly and cost-effective administration of the revolving fund program;~~

~~(v) Establishment of procedures for the investigation, defense, and payment of claims and the recoupment of claim payments made and costs associated with respect to participating projects from the project owners over time; and~~

~~(vi) Any other elements necessary and desirable to implement the revolving fund program in order to provide a cost-effective source of liability funding that is supplemental to insurance and other resources available to project owners.~~

~~(b) The authority to enter into a contract with the Washington state housing finance commission under this subsection is contingent on the commission's contribution of one million dollars of commission funds to assist in capitalizing the revolving fund program.~~

~~(c) Any claims against the Washington state housing finance commission arising from or with respect to the revolving fund program may be paid only from amounts provided by the commission for this purpose, provided by the contract entered into pursuant to this subsection, or provided by premiums paid under the revolving fund program, and neither the commission, the department, nor the state of Washington shall have any liability with respect to such claims.~~

Reappropriation:

State Taxable Building Construction	
Account—State.....	\$25,780,000
Prior Biennia (Expenditures).....	\$55,220,000
Future Biennia (Projected Costs).....	\$0
TOTAL.....	\$81,000,000

\*Sec. 105 was partially vetoed. See message at end of chapter.

\*Sec. 106. 2005 c 488 s 131 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Local/Community Projects (06-4-008)

The appropriation in this section is subject to the following conditions and limitations:

(1) The projects must comply with RCW 43.63A.125(2)(c) and other requirements for community projects administered by the department.

(2) Funding for the Inland Northwest Science and Technology Center shall be held in reserve until the balance of phase I funding has been secured or committed from local government and community sources.

(3) The Washington state arts commission shall design a plaque that shall be affixed to buildings or displayed as part of a project receiving any appropriation from this section. The plaque shall provide information to the public that the building or project has been made possible by the tax dollars of Washington citizens. The commission may contact the secretary of state to obtain approval for use of the Washington seal in the design of the plaque. The final design shall be approved by the chairs and ranking members of the house of representatives capital budget committee and the senate ways and means committee.

(4) The appropriation is provided solely for the following list of projects:

<b>Projects</b>	<b>Recommendation</b>
7th street theatre	\$600,000
Alder creek pioneer association carousel museum	\$450,000
Asian counseling and referral service	\$2,000,000
<u>Auburn veterans' memorial park improvements</u>	<u>\$50,000</u>
Bailey Gatzert children's play area	\$75,000
Bridge for kids	\$850,000
Brookside school ADA playground equipment	\$25,000
Buena library	\$50,000
<u>Camp prime time repairs—families with terminally ill children</u>	<u>\$100,000</u>
Cannon house	\$250,000
Central area motivation program (CAMP)	\$250,000
Cesar Chavez park	\$150,000
<u>Chambers creek footbridge</u>	<u>\$177,000</u>
Childhaven	\$150,000

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Clark Lake park and retreat center	\$500,000
Colman school <u>preconstruction activities</u>	<del>(\$500,000)</del>
	<u>\$1,200,000</u>
<u>Colored women's association meeting house</u>	<u>\$60,000</u>
Columbia breaks fire interpretive center	\$150,000
<u>Community center at Greenbridge</u>	<u>\$400,000</u>
Covington aquatics center phase 1	\$350,000
Crossroads community center and park	\$250,000
Cutter theater	\$71,000
<u>Deming library</u>	<u>\$85,000</u>
Des Moines beach park historic buildings	\$300,000
Discovery park	\$1,000,000
East Whatcom regional resource center	\$1,750,000
Eatonville family park	\$50,000
El Centro de la Raza	\$900,000
Filipino community center	\$200,000
<u>Financial assistance to the town of Hamilton</u>	<u>\$150,000</u>
<u>Food bank refrigeration projects</u>	<u>\$365,000</u>
Foster creek	\$150,000
Fox theater	\$2,398,000
<u>Garfield county agricultural museum</u>	<u>\$150,000</u>
GC health clinic	\$12,000
Grand Army of the Republic cemetery	\$5,000
Granite Falls museum expansion	\$50,000
Greenbridge plaza in White Center	\$200,000
Habitat park south hill	\$400,000
<u>Hanford reach interpretive center</u>	<u>\$2,000,000</u>
Hidden river environmental education center	\$50,000
ICL education center	\$200,000
Japanese cultural and community center	\$200,000
Joel Pritchard park	\$2,500,000
Joe's creek project	\$856,000
Juanita creek channel and riparian restoration	\$500,000
<u>Juanita highlands</u>	<u>\$275,000</u>
Julia Butler Hansen home restoration	\$10,000
<u>Kettle falls park</u>	<u>\$100,000</u>
<u>Kirkland nonmotorized facilities</u>	<u>\$200,000</u>

LeRoi smelter smokestack monument	\$3,000
Lewis and Clark confluence project	<del>(\$1,500,000)</del>
	<u>\$2,000,000</u>
McCaw hall	\$2,000,000
<u>Meridian habitat park</u>	<u>\$400,000</u>
<u>Miners' memorial</u>	<u>\$36,500</u>
<u>Miracle league handicapped baseball</u>	<u>\$57,000</u>
MOBIUS/Inland Northwest science and technology center	\$1,500,000
Mt. Baker theater	\$200,000
Mt. Vernon Jasper Gates statue	\$12,000
Multicultural center of Kitsap county	\$250,000
Nathaniel Orr home site museum interpretive center	\$29,000
<u>Neighborhood house rainier vista</u>	<u>\$200,000</u>
New Lakewood clinic	\$350,000
Northeast community center expansion	\$250,000
Northshore performing arts center	\$1,000,000
Northwest communities education center	\$1,000,000
Oak Harbor multi-purpose community and sports facility	\$50,000
Omak grandstand	\$250,000
<u>Orting fire station</u>	<u>\$250,000</u>
Pacific Northwest salmon center	\$1,000,000
Pacific science center	\$900,000
Performing arts center (PACE)	\$500,000
<u>Pike Place Market health center emergency repairs</u>	<u>\$1,000,000</u>
<u>Port of Quincy</u>	<u>\$400,000</u>
Puget Sound freight building warehouse—Thea Foss waterway	\$2,000,000
<u>Puyallup river walking trail</u>	<u>\$200,000</u>
<u>Rainier historical heating system</u>	<u>\$75,000</u>
<u>Red mountain</u>	<u>\$200,000</u>
Relocation of Sieke Japanese gardens	\$250,000
River walk and Sammamish river restoration	\$200,000
Roslyn city hall	\$150,000
Ruth Dykeman children's center	\$27,000
Sandman historical tug restoration	\$10,000
<u>Seattle Aquarium</u>	<u>\$2,000,000</u>

Seattle community center (1115 E. Pike street)	\$13,000
<u>Seattle mental health emerald house</u>	<u>\$28,000</u>
Seward park environmental and audubon center	\$400,000
Snohomish senior center	\$150,000
Sno-Valley senior activity center kitchen	\$50,000
Sound way property preservation	\$500,000
Spokane river whitewater course	\$400,000
Sumas ballpark	\$250,000
Synthetic sportsfield partnership at Robinswood park	\$400,000
Tall ships moorage	\$300,000
<u>Tritrail feasibility study</u>	<u>\$150,000</u>
Tukwila kayak and canoe launching facility	\$20,000
Undeveloped woodlands linked to interurban nature trail	\$150,000
Vancouver museum	\$125,000
Vancouver national historical reserve west barracks	\$1,000,000
Veterans memorial museum	\$100,000
<u>Wapato Lake renovations and water quality</u>	<u>\$250,000</u>
West Seattle community resource center	\$500,000
West central community center	\$500,000
West Hylebos wetlands boardwalk	\$100,000
Wilson playfield land acquisition	\$200,000
Wing Luke Asian art museum	\$2,000,000
Youth housing/drop-in center	\$400,000
<b>Total</b>	<b><u>(\$39,391,000)</u></b>
	<b><u>\$49,949,500</u></b>

Appropriation:

State Building Construction Account—State . . . . .	(\$39,391,000)
	<u>\$49,949,500</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$39,391,000)
	<u>\$49,949,500</u>

\*Sec. 106 was partially vetoed. See message at end of chapter.

Sec. 107. 2005 c 488 s 138 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Job/Economic Development Grants (06-4-950)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely for the following list of projects:

<b>Projects</b>	<b>Recommendation</b>
Belfair sewer improvements	<del>(\$8,000,000)</del> <u>\$3,200,000</u>
Bellingham waterfront restoration	\$2,000,000
<u>Bremerton facility for alternative energy technology research</u>	<u>\$800,000</u>
Bremerton Harborside	\$4,000,000
Burien town square	\$2,000,000
Carnation sewer	\$2,000,000
City of Covington	<del>(\$1,000,000)</del> <u>\$2,000,000</u>
<u>Grays Harbor PUD bioenergy project</u>	<u>\$1,500,000</u>
<u>Hops Initiative</u>	<u>\$500,000</u>
Infrastructure for Renton Boeing property	\$5,000,000
<u>Infrastructure for Washington farm produce exports</u>	<u>\$1,000,000</u>
Military communities infrastructure projects	\$5,000,000
Pacific Northwest national labs campus infrastructure project	\$6,000,000
Rainier court	\$1,500,000
Redevelop Snohomish riverfront	\$1,500,000
Ridgefield employment center project	\$2,000,000
Tukwila Southcenter parkway infrastructure	\$6,000,000
Yakima town center restoration	\$4,000,000
<b>Total</b>	<b>\$50,000,000</b>

(2) \$1,000,000 of the appropriation for the Pacific Northwest national labs campus infrastructure project is provided solely for giga-pop infrastructure.

(3) \$5,000,000 of the appropriation is provided solely for military communities infrastructure projects ~~(is provided solely for grants to support projects in Island county, Kitsap county, Pierce county, Snohomish county, and Spokane county when a military base in that county is identified for potential closure in the federal base realignment and closure process. The grants will be used to address infrastructure improvements that will aid in the removal of the base from the closure list. The office of financial management shall establish a process for selecting projects for funding based on criteria used to determine the federal base realignment and closure list and recommendations by the department of community, trade, and economic development and the military department. Final allocation of the grants shall be at the discretion and with the~~

~~approval of the director of the office of financial management)).~~ Military communities infrastructure projects shall include:

(a) Grants to counties and cities for the purchase of development easements to restrict the use of accident potential zones and clear zones. The office of financial management shall establish a competitive process for selecting projects to receive the grants. Final allocation of these grants shall be at the discretion and with the approval of the director of the office of financial management.

The grants are subject to the following conditions:

(i) The county or city must be subject to and in compliance with RCW 36.70A.530;

(ii) The grants may not be used to remove encroachments into these zones allowed by county or city zoning or permitting actions;

(iii) The county or city must have an encroachment prevention plan preventing future encroachment into these zones; and

(iv) The grant provided by the state must not exceed one-third of the project cost with funds from local and federal sources providing the balance of the funds.

(b) \$481,000 of the appropriation is provided solely for improvements to a military department site on Fairchild air force base.

(4) The legislature finds that the need to restore the health of Hood Canal will require funding over multiple biennia. It is the intent of the legislature to provide \$4,800,000 for the Belfair sewer improvement project in the 2007-2009 biennium.

Appropriation:

Public Works Assistance Account—State . . . . .	\$50,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	(( \$0))
	<u>\$4,800,000</u>
TOTAL . . . . .	<u>(( \$50,000,000))</u>
	<u>\$54,800,000</u>

NEW SECTION. Sec. 108. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Housing Assistance, Weatherization, and Affordable Housing—Home Security Fund (E2SHB 2418) (06-4-851)

The appropriations in this section are subject to the following conditions and limitations:

(1) \$6,800,000 of the appropriation from the Washington housing trust account is provided solely for the backlog, as defined by the department, of projects determined by the department to be eligible under chapter 43.185 or 43.185A RCW.

(2) \$1,000,000 of the appropriation from the Washington housing trust account is provided solely for short-term, long-term, or emergency housing vouchers for homeless persons, victims of domestic violence, low-income persons, or seasonal farm workers. The department shall establish guidelines for housing voucher programs.



(a) Housing vouchers for low-income persons or seasonal farm workers are specifically to be used for: (i) Privately owned and operated rental units, including single-family homes; or (ii) on-farm housing units. Housing and rental units for which farm worker housing vouchers may be used must meet temporary worker housing standards, when applicable. Housing voucher programs shall be administered by local public housing authorities or other local organizations.

(b) Housing vouchers for homeless persons and victims of domestic violence shall be administered by local public housing authorities, other local organizations with existing housing voucher programs, homeless shelters, or domestic violence shelters. Any of this appropriation that is unspent on June 30, 2007, shall be added to the amount appropriated for the backlog identified in subsection (1) of this section.

(3) \$4,500,000 of the appropriation from the Washington housing trust account is provided solely for weatherization administered through the energy matchmakers program.

(4) \$850,000 of the appropriation from the Washington housing trust account is provided solely to promote development of safe and affordable housing units for persons eligible for services from the division of developmental disabilities within the department of social and health services.

(5) \$500,000 of the appropriation from the Washington housing trust account is provided solely for shelters, transitional housing, or other housing facilities for victims of domestic violence.

(6) \$3,000,000 of the appropriation from the Washington housing trust account is provided solely for farm worker housing projects and programs to meet the full spectrum of housing needs of Washington's farm workers and their families. The department shall work with stakeholders representing a diversity of farm worker housing interests to develop a strategic plan in implementing this provision.

(7) \$200,000 of the appropriation from the Washington housing trust account is provided solely for the implementation and management of a manufactured/mobile home landlord-tenant ombudsman conflict resolution program by the office of mobile home affairs as generally described in section 3, chapter 429, Laws of 2005. The office of mobile home affairs shall also determine the number of complaints made to the department since May of 2005 that, in the best estimate of the department, do in fact present violations of chapter 59.20 RCW and shall produce a summary of the number and types of complaints. The office of mobile home affairs shall also continue to maintain and update a database with information about all mobile home parks and manufactured housing communities. The office of mobile home affairs shall provide a report regarding the activities and results of the program to the appropriate committees of the house of representatives and the senate by December 31, 2006.

(8) \$4,000,000 of the appropriation from the homeless families services account is provided solely for the purposes of RCW 43.330.167, but limited to residents living in housing subject to a regulatory agreement related to rent and/or income restrictions.

(9) \$150,000 of the appropriation from the Washington housing trust account is provided solely for a program to assist individuals and communities

in the home-buying process, including, but not limited to: Homebuyer education classes, credit and budget counseling, financial literacy training, and down payment assistance programs. The department shall contract with a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code or similar successor provision that has experience and expertise in addressing language access barriers in the home-buying process to implement this program.

(10) Appropriations in this section shall be included in the calculation of annual funds available for determining the administrative costs of the department, which shall not exceed five percent of the annual funds available for the housing assistance program and the affordable housing program as authorized under RCW 43.185.050 and 43.185A.030.

Appropriation:

Washington Housing Trust Account—State . . . . .	\$17,000,000
Homeless Families Services Account—State . . . . .	\$4,000,000
Subtotal Appropriation . . . . .	\$21,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$21,000,000

NEW SECTION. Sec. 109. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

Grays Harbor PUD Bioenergy Project (06-04-852)

Appropriation:

Energy Freedom Account—State . . . . .	\$6,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$6,000,000

**Sec. 110.** 2005 c 488 s 142 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Legislative Building: Rehabilitation and Capital Addition (01-1-008)

Reappropriation:

Thurston County Capital Facilities Account—State . . . . .	(\$100,000)
	<u>\$214,063</u>
Prior Biennia (Expenditures) . . . . .	\$106,280,442
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$106,380,442)
	<u>\$106,494,505</u>

NEW SECTION. Sec. 111. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Pritchard-Legislative Support Building Predesign (06-2-851)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$225,000 of the appropriation in this section is provided solely for predesign of the Joel M. Pritchard building as a legislative support facility and public cafeteria. The predesign must be concurrently prepared with the North Capital Campus executive office building(s) predesign in section 112 of this act, but this predesign is to be a distinct document and analysis. The predesign shall include, but not be limited to, the following: (a) A rehabilitation plan addressing electrical and mechanical systems, plumbing, seismic safety, fire protection, accessibility, energy consumption, and space use including the benefits and costs of the conversion of the upper floor stack space into usable office space or alternative uses; (b) an assessment of the facility requirements of legislative support agencies including the statute law committee, the joint legislative audit and review committee, the legislative service center, and the legislative evaluation and accountability program as potential building tenants; and (c) a financing strategy for the facility that may consider a combination of funding sources including state general obligation bonds and the use of alternative financing mechanisms that utilize dedicated revenue streams through the conversion of existing lease payments into debt service payments.

(2) \$150,000 of the appropriation in this section is provided solely for the planning and initial building demolition to relocate the statute law committee from the Pritchard building basement into the east wing, provided that the initial planning and demolition is determined to conform with the completed Pritchard predesign. The office of financial management shall not allot funding for the planning and initial building demolition for the statute law committee until the Pritchard predesign has been submitted and approved by the legislative fiscal committees and the office of financial management.

Appropriation:

State Building Construction Account—State . . . . .	\$375,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$375,000

Sec. 112. 2005 c 488 s 152 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

~~((General Administration Building Rehabilitation))~~ North Capital Campus Executive Office Building(s) (06-1-002)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for predesign for replacement or renovation of the general administration building combined with the development of an office building on the block adjoining Capital Way and 11th avenue. The combined development is intended to provide: (1) Executive office space for statewide elected officials; (2) public access space for the state library collection and historically significant documents from the state archives and the state historical museum; and (3) high density general office space that can adapt to changing state needs. The project will maximize interagency sharing of support services such as information technology, printing and mailing, management and storage of supplies, reception areas, and other common

functions. The project will also include sufficient parking to provide a significant net increase in parking spaces beyond what is required for the new office space. The project shall also include leasable ground floor retail space on Capital Way. The department shall consult with statewide elected officials and the city of Olympia in developing the predesign. ~~((The predesign shall evaluate the use of the Pritchard building as one of the options for use by the state library and historically significant documents from the state archives and state historical museum.))~~ Due to the intended replacement of the building adjoining Capital Way and 11th avenue, the department shall not charge the facility depreciation component of lease charges for nonprofit tenants in that facility during the 2005-2007 biennium.

Appropriation:

Thurston County Capital Facilities Account—State . . . . .	(\$750,000)
	<u>\$1,620,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	(\$65,500,000)
	<u>\$312,017,000</u>
TOTAL . . . . .	(\$66,250,000)
	<u>\$313,637,000</u>

Sec. 113. 2005 c 488 s 156 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Statewide Office Facilities: Preservation Minor Works (06-1-003)

The appropriations in this section are subject to the following conditions and limitations: Funding is provided for electrical and elevator upgrades in the insurance building.

Appropriation:

Thurston County Capital Facilities Account—State . . . . .	\$2,965,000
General Administration Service Account—State . . . . .	\$1,850,000
Subtotal Appropriation . . . . .	\$4,815,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$16,239,000
TOTAL . . . . .	\$21,054,000

Sec. 114. 2005 c 488 s 161 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

Legislative Building Omnibus (06-1-005)

The appropriations in this section are subject to the following conditions and limitations: The department shall assist in the relocation of the statute law committee offices from the legislative building to the Pritchard building. The vacated space is intended for additional offices for the house of representatives.

Appropriation:

State Building Construction Account—State . . . . .	(\$1,100,000)
	<u>\$1,460,000</u>
Thurston County Capital Facilities Account—State . . . . .	\$878,000
Subtotal Appropriation . . . . .	(\$1,978,000)

	<u>\$2,338,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(((\$1,978,000))
	<u>\$2,338,000</u>

**NEW SECTION. Sec. 115.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**  
Capital Campus Master Plan (06-2-001)

The appropriation in this section is subject to the following conditions and limitations: The master plan shall include a review of the need for meeting space and training facilities to support state government in Thurston county. The review must compare existing facilities with other states' capitals with similar populations. The master plan must also consider the need for transportation access to the campus.

Appropriation:

General Administration Services Account—State . . . . .	\$200,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$200,000

*\*Sec. 116. 2005 c 488 s 162 (uncodified) is amended to read as follows:*

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**  
*ADA Access Between Legislative, Cherberg, O'Brien, and Pritchard Buildings (06-1-951)*

*The appropriation in this section is subject to the following conditions and limitations: The design and construction of the Americans with Disabilities Act-compliant pathway to the Pritchard building shall be included in the Pritchard redesign funded in section 111 of this act.*

Appropriation:

State Building Construction Account—State . . . . .	\$1,349,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,349,000

\*Sec. 116 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 117.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**WASHINGTON STATE PATROL**  
Vancouver Crime Lab - Phase 2 (06-2-003)

Appropriation:

State Building Construction Account—State . . . . .	\$2,940,000
Prior Biennia (Expenditures) . . . . .	\$9,947,000
Future Biennia (Projected Costs) . . . . .	\$0

TOTAL . . . . . \$12,887,000

Sec. 118. 2005 c 488 s 201 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

School Mapping (06-1-100)

The appropriations in this section ~~((is))~~ are subject to the following conditions and limitations: ~~((The appropriation is provided solely for the initial mapping of schools and production of software and may not be used to supplant any local government's existing school or other building mapping program that can transfer data to a statewide first responder building mapping information system.))~~ Mapping of ~~((public buildings, including))~~ school buildings~~((,))~~ shall be undertaken under standards adopted by the Washington association of sheriffs and police chiefs mapping software standards as required by RCW 36.28A.070. The ~~((criminal justice training commission))~~ Washington association of sheriffs and police chiefs shall work with the office of the superintendent of public instruction to ensure school mapping is part of newly constructed or renovated construction projects ~~((and shall develop policies and procedures to ensure efficient use and implementation of such procedures)).~~ For school construction projects funded through the state board of education's state school construction assistance program during the 2005-2007 biennium, the Washington association of sheriffs and police chiefs shall prioritize the initial mapping or remapping of the state board of education's state school construction assistance program projects that are colocated with schools funded by the appropriation in this section. Additionally, the Washington association of sheriffs and police chiefs shall develop policies and procedures to ensure efficient use and implementation of such procedures.

It is the intention of the legislature that the design of new and remodeled facilities incorporate mapping and remapping as needed.

The Washington association of sheriffs and police chiefs will consult with the office of the superintendent of public instruction and report to the fiscal committees of the legislature by September 1, 2006, on efficient and low-cost ways to maintain up-to-date maps.

Appropriation:

Education Construction Account—State . . . . .	\$4,500,000
<u>Common School Construction Account—State</u>	<u>\$1,000,000</u>
<u>Subtotal Appropriation</u>	<u>\$5,500,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(((\$4,500,000))</del> <u>\$5,500,000</u>

Sec. 119. 2005 c 488 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Echo Glen Children's Center - Housing Units (00-1-041)

Reappropriation:

State Building Construction Account—State . . . . . \$500,000

Appropriation:

State Building Construction Account—State . . . . . \$5,800,000

Prior Biennia (Expenditures) . . . . .	\$5,605,495
Future Biennia (Projected Costs) . . . . .	(\$16,100,000)
	<u>\$10,300,000</u>
TOTAL . . . . .	\$22,205,495

**NEW SECTION. Sec. 120.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Green Hill School: New Intensive Management Unit Building, and Health Center and Administration Building (06-2-202)

Appropriation:

State Building Construction Account—State . . . . .	\$1,250,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$12,500,000
TOTAL . . . . .	\$13,750,000

**NEW SECTION. Sec. 121.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Rainier School: Storm and Sewer Phase 3 (06-1-853)

Appropriation:

State Building Construction Account—State . . . . .	\$100,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$100,000

**Sec. 122.** 2005 c 488 s 238 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Washington Information Network 2-1-1 (06-2-850)

The appropriation in this section is subject to the following conditions and limitations: The department shall require the organizations to prepare a financing plan that specifies the full cost of implementing the system statewide including capital costs and operating costs by September 1, 2006. The financing plan shall identify appropriate sources of revenue to support full implementation and ongoing operational costs. Allowable uses of appropriated funds include the purchase of software, equipment, programming, and improvements located in states adjacent to Washington and that support the 2-1-1 information network in Washington.

Appropriation:

State Building Construction Account—State . . . . .	\$1,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,000,000

**NEW SECTION. Sec. 123.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

Retsil Building 9 Renovation - Transient Program (06-1-008)

Appropriation:

General Fund—Federal . . . . .	\$318,000
State Building Construction Account—State . . . . .	\$171,000
Subtotal Appropriation . . . . .	\$489,000
 Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$489,000

Sec. 124. 2005 c 488 s 252 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Coyote Ridge Corrections Center: Expansion (98-2-011)

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~(\$179,000,000)~~) The appropriation in this section is provided solely to design and construct a (~~(1,280)~~) 1,792 bed medium-security prison at Coyote Ridge corrections center in Connell.

(2) The facility shall be a publicly-owned and operated facility.

(3) The new facility shall include at least 512 hybrid-security beds that have a lower cost to construct than conventional medium security beds but still maintain a medium security perimeter.

(4) Design of the facility shall incorporate efficiencies in administrative space and support services realized by sharing services within the region. The department shall examine other states' and private industry standard designs, and report on how efficiencies will be incorporated into the design of the facility to the office of financial management and to legislative fiscal staff not later than September 1, 2005. Nothing in this subsection requires the department to adopt design parameters that would endanger public safety or generate increased operating costs.

(5) Once opened, a portion of the new facility shall be used to alleviate the crowded conditions in reception at the Washington corrections center in Shelton.

Reappropriation:

State Building Construction Account—State . . . . .	\$921,140
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Appropriation:

State Building Construction Account—State . . . . .	<del>(\$179,000,000)</del>
	<u>\$229,000,000</u>
 Prior Biennia (Expenditures) . . . . .	\$986,347
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$180,907,487)</del>
	<u>\$230,907,487</u>

Sec. 125. 2005 c 488 s 255 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Monroe Corrections Center: 100-Bed Management and Segregation Unit (00-2-008)

Reappropriation:



General Fund—Federal . . . . .	\$819,229
State Building Construction Account—State . . . . .	(\$18,674,000)
	<u>\$17,747,000</u>
Subtotal Reappropriation . . . . .	(\$19,493,229)
	<u>\$18,566,229</u>

Appropriation:

<u>General Fund—Federal . . . . .</u>	<u>\$927,000</u>
Prior Biennia (Expenditures) . . . . .	\$19,944,803
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$39,438,032

Sec. 126. 2005 c 488 s 264 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Washington State Penitentiary: North Close Security Compound (04-2-005)

Reappropriation:

State Building Construction Account—State . . . . .	\$124,000,000
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Appropriation:

<del>(General Fund—Federal . . . . .)</del>	<del>(\$927,000)</del>
State Building Construction Account—State . . . . .	(\$5,891,000)
	<u>\$6,818,000</u>
<del>((Subtotal Appropriation . . . . .)</del>	<del>(\$6,818,000)</del>

Prior Biennia (Expenditures) . . . . .	\$9,940,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$140,758,000

NEW SECTION. Sec. 127. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Washington State Penitentiary: Replace Correctional Industry Roof (06-1-023)

Appropriation:

State Building Construction Account—State . . . . .	\$1,553,000
Charitable, Educational, Penal, and Reformatory	
Institutions Account—State . . . . .	\$1,898,000
Subtotal Appropriation . . . . .	\$3,451,000

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$3,451,000

NEW SECTION. Sec. 128. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Cedar Creek Corrections Center: 100 Bed Expansion (06-2-851)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for implementation of penalties for driving under the influence of intoxicating liquor

or any drug authorized in chapter . . . (House Bill No. 3317), Laws of 2006. If the bill is not enacted by June 30, 2006, the amounts in this section shall lapse.

Appropriation:

State Building Construction Account—State . . . . .	\$6,228,500
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$6,228,500

**NEW SECTION. Sec. 129.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

Larch Corrections Center: 80 Bed Expansion (06-2-852)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for implementation of penalties for driving under the influence of intoxicating liquor or any drug authorized in chapter . . . (House Bill No. 3317), Laws of 2006. If the bill is not enacted by June 30, 2006, the amounts in this section shall lapse.

Appropriation:

State Building Construction Account—State . . . . .	\$3,071,500
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$3,071,500

**Sec. 130.** 2005 c 488 s 287 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

Employment Resource Center (05-2-001)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation is provided solely ~~((to))~~ for services and activities including the purchase and ~~((install))~~ installation of state of the art equipment for a 40,000 square foot facility supporting work force development programs using funds available to the state in section 903(d) of the Social Security Act (Reed act).

Reappropriation:

Unemployment Compensation Administration	
Account—Federal . . . . .	\$6,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$6,000,000

**Sec. 131.** 2005 c 488 s 323 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Centennial Clean Water Program (06-4-007)

The appropriations in this section are subject to the following conditions and limitations:

(1) Up to \$10,000,000 of the state building construction account—state appropriation is provided for the extended grant payment to Spokane for the Spokane-Rathdrum Prairie aquifer.

(2) \$5,000,000 of the state building construction account—state appropriation is provided solely for water quality grants for hardship communities with a population of less than 5,000. The department shall give priority consideration to: (a) Communities subject to a regulatory order from the department of ecology for noncompliance with water quality rules; (b) projects for which design work has been completed; and (c) projects with a local match from reasonable water quality rates and charges.

(3) \$1,000,000 of the state building construction account—state appropriation is provided solely to design appropriate wastewater treatment facilities to serve the Hoodspout to Skokomish reservation areas of Hood Canal. The exact facilities will be based upon the recommendations from an analysis of wastewater management options for the Hoodspout to Skokomish river currently being undertaken by Mason county.

(4) \$750,000 of the state building construction account—state appropriation is provided solely for assistance in management and clean up activities at Long Lake in Kitsap county and \$50,000 of the state building construction account—state appropriation is provided solely for assistance in cleaning up Wapato Lake in Pierce county. The assistance is contingent on the lake communities adopting a lake management plan that meets the department's requirement.

(5) \$320,000 of the water quality account—state appropriation is provided solely to Mason county to develop a septic system data base and identify failing septic systems in Hood Canal.

(6) \$70,000 of the water quality account—state appropriation is provided solely to Kitsap county for surveys of septic systems in Hood Canal.

(7) \$70,000 of the water quality account—state appropriation is provided solely to Jefferson county for surveys of septic systems in Hood Canal.

(8) Up to \$1,500,000 of the water quality account—state appropriation is for grants for on-site sewage replacement. This appropriation may be used to: (a) Establish new or expand existing on-site sewage repair and replacement loan or grant programs by county governments or tribes; or (b) develop a pilot program to administer an on-site sewage repair and replacement loan program through a qualified private or nonprofit lending institution. This appropriation must be used in conjunction with the water pollution control revolving account—state appropriation in section 135 of this act provided for this purpose. Of this amount, up to \$1,000,000 may be used to help financially distressed homeowners repair and replace failing on-site sewage systems, and up to \$500,000 may be used to help local governments plan, implement, and administer the local loan fund assistance programs. The total overall local government and tribal administration costs may not exceed seven percent of the total statewide grant and loan on-site program. The department must report on the use of these funds to the Puget Sound water quality action team as part of its activities under the 2005-2007 Puget Sound conservation and recovery plan.

(9) \$3,500,000 of the state toxics control account—state appropriation is provided solely for wastewater treatment upgrades at Twanoh, Dosewallips, Fort Casey, Fort Ebey, Birch Bay, and Sequim Bay state parks.

(10) \$600,000 of the state building construction account—state appropriation is provided solely for the community of Klickitat to supplement other local, state, and federal funds for wastewater treatment facility construction. Klickitat will not be required to accept a state revolving loan as a match to the grant.

(11) \$1,250,000 of the state toxics control account—state appropriation is provided solely for accelerating toxic cleanup in the Spokane area.

(12) \$1,500,000 of the state building construction account—state appropriation is provided solely for the city of Carnation wastewater treatment system construction.

(13) \$1,150,000 of the state building construction account—state appropriation is provided solely for activities required to determine the total daily maximum load (TMDLs) for the Spokane river.

(14) The remaining appropriation in this section is provided for statewide water quality implementation and planning grants and loans.

Appropriation:

State Building Construction Account—State	.....	(\$20,000,000)
		<u>\$23,250,000</u>
Water Quality Account—State	.....	(\$7,500,000)
		<u>\$9,000,000</u>
State Toxics Control Account—State	.....	(\$10,500,000)
		<u>\$15,250,000</u>
Subtotal Appropriation	.....	(\$38,000,000)
		<u>\$47,500,000</u>
Prior Biennia (Expenditures)	.....	\$0
Future Biennia (Projected Costs)	.....	\$211,808,000
TOTAL	.....	(\$249,808,000)
		<u>\$259,308,000</u>

**Sec. 132.** 2005 c 488 s 324 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

State Drought Preparedness (05-4-009)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The reappropriation in this section is provided solely for response to the statewide drought that was declared pursuant to chapter 43.83B RCW. The department of ecology may provide funding or compensation for purchase or lease of water rights and to public bodies as defined in RCW 43.83B.050 in connection with projects and measures designed to alleviate drought conditions which may affect: Public health and safety; drinking water supplies; agricultural activities; or fish and wildlife survival.

(2) Projects or measures for which funding or compensation will be provided must be connected with a water system, water source, or water body which is receiving, or has been projected to receive, less than seventy-five percent of normal water supply, as the result of natural drought conditions. This reduction in water supply must be such that it is causing, or will cause, undue hardship for the entities or fish or wildlife depending on the water supply. General criteria for guidelines to be established by the department of ecology for

distribution of funds must include: A balanced and equitable distribution of the funds among the different sectors affected by drought; a funding process that ensures funds are available for drought impacts that arise both early and later during the course of the drought; and preference for projects that leverage other federal and local funds.

(3) Up to \$1,500,000 of the reappropriation in this section is provided to the Roza irrigation district for the purchase or lease of water rights.

(4) \$150,000 of the reappropriation in this section is provided solely to support the development and demonstration of water management measures in the Walla Walla Basin that improve and protect instream flow and water quality, and which also help sustain agricultural and economic vitality. The director of the department shall report to the legislature by December 31, 2006, with any findings, conclusions, and recommendations regarding such water management measures.

(5) \$50,000 of the reappropriation in this section is provided solely to Chelan county to assess the feasibility of storing water in Campbell creek canyon to supplement instream flows in Peshastin creek, as part of the Peshastin irrigation district.

(6) \$100,000 of the reappropriation in this section is provided solely for a study of ground water and other issues related to drought in the Quilcene watershed.

Reappropriation:

State Drought Preparedness Account—State .....	(\$8,200,000)
	<u>\$7,330,000</u>
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$8,200,000)
	<u>\$7,330,000</u>

**Sec. 133.** 2005 c 488 s 325 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Local Toxics Grants for Clean up and Prevention (06-4-008)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$4,000,000 of the appropriation is provided solely for grants to local governments for local projects that implement the state "never waste" plan. Grant funds will emphasize additional organics composting and conversion, green building, and moderate risk waste projects described in the plan. Of this amount, up to \$1,600,000 may be used for one-time funding for auto switch recycling consistent with the memorandum of agreement being finalized with the auto recyclers association.

(2) \$2,000,000 of the appropriation is provided for emission reduction projects for local governments to retrofit public sector diesel engines with exhaust emission control devices or to make other modifications or operational changes, including cleaner fuels, to allow public sector fleets to reduce their emissions.

(3) \$3,000,000 of the appropriation is provided solely for grants to local governments needing assistance in complying with the new phase II storm water

permit requirements. Of this amount, \$300,000 is provided solely for Mason county to prepare storm water management plans for Belfair and Hoodspport consistent with the storm water program in the Puget Sound conservation and recovery plan.

(4) (~~(\$60,000,000)~~) \$70,900,000 of the appropriation is provided solely for remedial action grants. Of this amount, \$1,000,000 is provided to the town of Warden to respond to contamination of their existing water system.

(5) From within this appropriation, the department shall prepare an online guide to help small businesses and homeowners learn what to do if they discover toxic wastes on their property. The guide shall provide information about local resources for clean up and disposal of toxic wastes.

(6) \$8,000,000 of the appropriation is provided solely for coordinated prevention grants provided to local governments for local government solid and hazardous waste planning, household and small business hazardous waste collection and disposal, recycling capital purchases and program development, and local solid waste enforcement.

Appropriation:

Local Toxics Control Account—State . . . . .	<del>(\$80,000,000)</del>
	<u>\$98,900,000</u>
Prior Biennia (Expenditures) . . . . .	\$45,000,000
Future Biennia (Projected Costs) . . . . .	\$180,000,000
TOTAL . . . . .	<del>(\$315,000,000)</del>
	<u>\$323,900,000</u>

Sec. 134. 2005 c 488 s 327 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Safe Soil Remediation and Awareness Projects (06-2-001)

The appropriation in this section is subject to the following conditions and limitations: \$700,000 of the appropriation is provided solely to continue clean up of the Everett Asarco residential area.

Appropriation:

State Toxics Control Account—State . . . . .	<del>(\$2,000,000)</del>
	<u>\$5,000,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$2,000,000)</del>
	<u>\$5,000,000</u>

Sec. 135. 2005 c 488 s 329 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Water Pollution Control Revolving Account (06-4-002)

The appropriations in this section are subject to the following conditions and limitations:

(1) The department shall give priority loan funding consideration to on-site septic system rehabilitation and replacement programs in Mason, Kitsap, and

Jefferson counties for at least \$1,000,000 from the water pollution control revolving account—state in the second year of the funding cycle.

(2) Up to \$5,000,000 of the water pollution control revolving account—state appropriation is for loans for on-site sewage replacement. This appropriation may be used to: (a) Establish new or expand existing on-site sewage repair and replacement loan programs by county governments or tribes; or (b) develop a pilot program to administer an on-site sewage repair and replacement loan program through a qualified private or nonprofit lending institution. This appropriation must be used in conjunction with water quality account—state appropriation in section 131 of this act provided for this purpose. The department must work with the department of health, the Puget Sound water quality action team, local governments, and the lending industry in developing and piloting this program. The department shall provide a status report on the loan program to the governor and the appropriate legislative fiscal committees by June 30, 2007, including any recommendations for improving the program. The department must report on the use of these funds to the Puget Sound water quality action team as part of its activities under the 2005-2007 Puget Sound conservation and recovery plan.

Appropriation:

Water Pollution Control Revolving	
Account—State . . . . .	\$162,839,146
Water Pollution Control Revolving	
Account—Federal . . . . .	\$76,777,140
Subtotal Appropriation . . . . .	\$239,616,286
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$912,000,000
TOTAL . . . . .	\$1,151,616,286

**Sec. 136.** 2005 c 488 s 330 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Watershed Plan Implementation and Flow Achievement (06-2-003)

The appropriations in this section (~~(is)~~) are subject to the following conditions and limitations: \$12,000,000 of the appropriation is provided solely for projects and water right acquisitions to support watershed planning efforts and achieving instream flows subject to the following project types, conditions, and limitations:

(1) Up to \$1,353,172 of the appropriation is provided to improve irrigation efficiency and to achieve associated flow improvements in the Twisp and Methow rivers by providing for cleaning and lining and/or piping of 30,943 linear feet of the irrigation canal within the lower (downstream) seven miles of the Methow Valley irrigation district's west canal. Of this amount, up to \$100,000 is provided for a neutral independent consultant to provide management assistance to the Methow Valley irrigation district for purposes of identifying structural and operational improvements to increase overall system water use efficiency.

(2) Up to \$200,000 of the appropriation is provided for a portion of the costs of the project level environmental impact statement for the Ahtanum creek watershed restoration program, including construction of the Pine Hollow

reservoir, provided there is agreement among the Yakama nation, Ahtanum irrigation district, and other jurisdictional federal, state, and local agencies and entities to proceed with the environmental impact statement.

(3) Up to \$75,000 of the appropriation is provided to formalize the Ahtanum creek watershed restoration program, including identification of site specific habitat improvement projects and determination of the most appropriate restoration program alternative to implement.

(4) Up to \$1,500,000 of the appropriation is provided to reduce diversions from the Dungeness river through pipeline projects identified in the Dungeness river comprehensive irrigation district management plan. For at least one year from the effective date of this section, while the parties seek resolution of the court action filed in Thurston county superior court, No. 04-2-00078-2, none of these funds may be allocated to any projects in the Dungeness river basin that are within the area that is the zone of contribution for ground and surface water infiltration to the existing Graysmarsh wetland.

(5) \$100,000 of the appropriation is provided solely to the city of Normandy Park to implement the basin plan for the Miller/Walker and Salmon creek basins.

(6) Water storage grants for the development of plans, engineering and financing reports, acquiring lands and facilities, and other preconstruction activities associated with the development of water storage and groundwater storage and recovery projects. Proposed projects should be consistent with the recommendations of the water storage task force. The department of ecology would issue grants in consultation with the departments of agriculture and fish and wildlife.

(7) Infrastructure improvement projects and other water management actions that benefit stream flows and enhance water supply to resolve conflicts among water needs for municipal water supply, agriculture water supply, and fish restoration. The stream flow improvements and other public benefits secured from these projects should be commensurate with the investment of state funds.

(8) Projects for planning, acquisition, construction, and improvement of agriculture water supply facilities and achieving water conservation and water use efficiency improvements.

(9) Financial assistance to purchase and install water measuring devices at points of diversion and withdrawal. Preference would be given to fish-critical basins, to areas participating in the department of fish and wildlife fish screening and cooperative compliance programs, and to basins where watershed planning has determined additional water diversion and withdrawal information is needed.

(10) Funding for acquisition of either water or water rights, or both, for instream flow achievement and establishment of water accounts. The appropriation is provided for either the purchase or lease, or both, of water rights. It is also provided for the purpose of improving stream and river flows in fish critical basins under the trust water rights program under chapters 90.42 and 90.38 RCW.

(11) The department shall provide small grants to watershed councils that have completed watershed plans. The grants are intended to support periodic meetings and other monitoring activities of the councils so that they can monitor the implementation of watershed plans.



(12) \$400,000 of the water quality account—state appropriation is provided solely to support the Skagit comprehensive irrigation district management plan.

(13) \$400,000 of the state building construction account—state appropriation is provided solely for grants for watershed planning, including \$250,000 for King county, \$75,000 for planning for the Little Spokane river, and \$75,000 in enhanced funding for the Chehalis watershed council.

Appropriation:

State Building Construction Account—State . . . . .	<del>(\$12,000,000)</del>
	\$12,400,000
Water Quality Account—State . . . . .	\$400,000
Subtotal Appropriation . . . . .	\$12,800,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$48,000,000
TOTAL . . . . .	<del>(\$60,000,000)</del>
	\$60,800,000

NEW SECTION. Sec. 137. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Motor Vehicle Mercury Removal Program (06-2-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is for one-time funding to implement the memorandum of agreement establishing the Washington motor vehicle mercury switch removal program. If chapter ... (Second Substitute House Bill No. 1731), Laws of 2006 is enacted by June 30, 2006, then the amount in this section shall be appropriated to the Hood Canal aquatic rehabilitation program under the interagency committee for outdoor recreation in section 155 of this act.

Appropriation:

State Toxics Control Account—State . . . . .	\$1,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,000,000

NEW SECTION. Sec. 138. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Early Spill Response Equipment Caching (06-1-003)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for grants to local governments to secure and place hazardous material spill response equipment at critical locations around the state. Grant funds will emphasize strategic placement of equipment that will allow for quick access and deployment by state, local, or tribal responders in the event of a spill.

Appropriation:

Local Toxics Control Account—State . . . . .	\$1,450,000
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Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,450,000

NEW SECTION. Sec. 139. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Local Innovative Storm Water Grants (06-2-006)

The appropriation in this section is subject to the following conditions and limitations: This appropriation is provided solely for grants to local governments in Puget Sound to fund innovative, low-impact development storm water management projects to meet critical storm water management needs and protect or restore water quality. Projects may include use of bioretention, rainwater harvest, permeable pavement, vegetated roofs, and other low-impact development techniques. Projects funded in Puget Sound must meet the design guidelines contained in the low impact development technical guidance manual for Puget Sound, unless the municipality can demonstrate that site conditions warrant a deviation from the design guidelines and the deviations in design shall provide similar performance. All projects must include performance monitoring. The department must report on the use of these funds to the Puget Sound water quality action team as part of its activities under the 2005-2007 Puget Sound conservation and recovery plan.

Appropriation:

State Toxics Control Account—State . . . . .	\$2,500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$2,500,000

NEW SECTION. Sec. 140. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Waste Tire Clean Up (06-1-002)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for the department to initiate clean up of waste tires at the highest risk sites statewide. This clean up work must include major progress at the Goldendale site in Klickitat county.

Appropriation:

Waste Tire Removal Account—State . . . . .	\$4,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$4,000,000

NEW SECTION. Sec. 141. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Clean Up Toxics Sites - Puget Sound (06-4-001)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely for the clean up of contaminated sites that lie adjacent to and are within one-half mile of Puget Sound. Clean ups must include orphan and abandoned sites that pose a threat to Puget Sound with the highest priority sites being cleaned up first. The department must report on the use of these funds to the Puget Sound water quality action team as part of its activities under the 2005-2007 Puget Sound conservation and recovery plan.

Appropriation:

State Toxics Control Account—State . . . . .	\$4,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$4,000,000

NEW SECTION. Sec. 142. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Clean Up Toxic Sites - Upland and Aquatics (06-1-005)

The appropriation in this section is subject to the following conditions and limitations: The department must report on the use of these funds to the Puget Sound water quality action team as part of its activities under the 2005-2007 Puget Sound conservation and recovery plan.

Appropriation:

State Toxics Control Account—State . . . . .	\$5,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$5,000,000

NEW SECTION. Sec. 143. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

Columbia River Basin Water Supply Development Program (06-2-950)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for implementation of the Columbia river basin water supply development program in chapter 6, Laws of 2006.

Appropriation:

Columbia River Basin Water Supply Development Account—State . . . . .	\$10,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$10,000,000

**Sec. 144.** 2005 c 488 s 340 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Minor Works: Facility Preservation (04-1-001)

The reappropriations in this section are subject to the following conditions and limitations: The reappropriations in this section are provided solely to continue minor works projects that reduce the deferred maintenance backlog.

Reappropriation:

State Building Construction Account—State . . . . .	\$147,269
Parks Renewal and Stewardship Account—State . . . . .	<del>(\$2,600,000)</del>
	<u>\$679,079</u>
Subtotal Reappropriation . . . . .	<del>(\$2,747,269)</del>
	<u>\$826,348</u>
Prior Biennia (Expenditures) . . . . .	\$4,990,231
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$7,737,500)</del>
	<u>\$5,816,579</u>

Sec. 145. 2005 c 488 s 341 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Parkland Acquisition (04-2-013)

Reappropriation:

Parkland Acquisition Account—State . . . . .	<del>(\$412,690)</del>
	<u>\$191,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$412,690)</del>
	<u>\$191,000</u>

Sec. 146. 2005 c 488 s 342 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Recreation Development (04-2-002)

The reappropriation in this section is subject to the following conditions and limitations:

(1) Up to \$100,000 of the reappropriation shall be used to retain a consultant to conduct a predesign study for a headquarters building located in Thurston county. The predesign shall compare a new leased facility against options to build and evaluate appropriate funding strategies.

(2) ~~(\$900,000)~~ Up to \$700,000 of the reappropriation is provided ~~(solely)~~ to install fee collection stations at selected parks statewide. Any unused funding of this reappropriation may be expended on other recreation development projects including up to \$35,000 for the artificial reef project at Saltwater state park.

(3) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the commission shall file quarterly project progress reports with the office of financial management.

Reappropriation:

State Building Construction Account—State . . . . .	\$700,000
Prior Biennia (Expenditures) . . . . .	\$2,200,000
Future Biennia (Projected Costs) . . . . .	\$0

TOTAL . . . . . \$2,900,000

Sec. 147. 2005 c 488 s 346 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Beacon Rock - Pierce Trust (06-1-030)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The appropriation in this section is provided solely for improvements to ~~((the group camp at))~~ Beacon Rock state park.
- (2) The funding has been provided solely and directly for this project.

Appropriation:

Parks Renewal and Stewardship Account—Private/Local . . . . . \$350,000

Prior Biennia (Expenditures) . . . . . \$0

Future Biennia (Projected Costs) . . . . . \$0

TOTAL . . . . . \$350,000

NEW SECTION. Sec. 148. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Sustainable Development and Restoration (06-1-011)

Appropriation:

State Toxics Control Account—State . . . . . \$500,000

Prior Biennia (Expenditures) . . . . . \$0

Future Biennia (Projected Costs) . . . . . \$0

TOTAL . . . . . \$500,000

Sec. 149. 2005 c 488 s 360 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Parkland Acquisition Account (06-2-020)

The appropriation in this section is subject to the following conditions and limitations: The state parks and recreation commission shall provide lists of potential purchases and sales to the office of financial management and the legislature prior to committing the state parks and recreation commission to any sale or purchase of land or buildings and prior to any allotments made for those purchases. Included in the lists will be any potential operating or capital cost impacts known to the state parks and recreation commission.

Appropriation:

Parkland Acquisition Account—State . . . . . ~~(\$4,000,000)~~  
\$6,000,000

Prior Biennia (Expenditures) . . . . . \$0

Future Biennia (Projected Costs) . . . . . \$16,000,000

TOTAL . . . . . ~~(\$20,000,000)~~  
\$22,000,000

Sec. 150. 2005 c 488 s 365 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Park Development (06-1-950)

The appropriation in this section is subject to the following conditions and limitations:

(1) \$250,000 is provided solely to construct a pedestrian/emergency vehicle access bridge across Connor creek to allow for beach access.

(2) \$500,000 is provided solely to determine long-term park zoning, design park amenities and services, and provide site permit and initial construction development at Nisqually-Mashel. The state parks and recreation commission shall provide a predesign in accordance with the office of financial management's predesign instructions.

(3) \$150,000 is provided solely for initial park development at Sequim Bay-Miller Peninsula. The state parks and recreation commission shall provide a predesign in accordance with the office of financial management's predesign instructions.

Appropriation:

State Building Construction Account—State . . . . .	\$900,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$900,000

NEW SECTION, Sec. 151. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Hood Canal Wastewater and Improvement Projects (06-1-850)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for wastewater and clean water improvement projects at the following locations:

<b>Projects</b>	<b>Amount</b>
Twanoh state park	\$100,000
Dosewallips state park	\$1,200,000
Belfair state park	\$700,000
Potlatch state park	\$1,050,000
Kitsap Memorial state park	\$500,000
Scenic Beach state park	\$900,000
Twanoh and Triton Cove state parks	\$300,000
Shine Tidelands state park	\$850,000
Pleasant Harbor state park	\$150,000
Triton Cove state park	\$170,000
<b>Total</b>	<b>\$5,920,000</b>

Appropriation:

Hood Canal Aquatic Rehabilitation Bond Account—State . . . . .	\$5,920,000
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Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
<b>TOTAL</b> . . . . .	<b>\$5,920,000</b>

NEW SECTION. **Sec. 152.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**  
 Puget Sound Wastewater and Improvement Projects (06-1-851)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for wastewater and clean water improvement projects at the following locations:

<b>Projects</b>	<b>Amount</b>
Sequim Bay state park	\$125,000
Fort Flagler state park	\$750,000
Larabee state park	\$750,000
Fort Worden state park	\$300,000
Camano Island state park	\$300,000
Deception Pass state park	\$350,000
Possession Point	\$250,000
Illahee state park	\$1,100,000
Kopachuck state park	\$1,200,000
Penrose Point state park	\$700,000
Blake Island state park	\$250,000
Fay Bainbridge state park	\$1,300,000
<b>Total</b>	<b>\$7,375,000</b>

Appropriation:

State Building Construction Account—State . . . . .	\$7,375,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
<b>TOTAL</b> . . . . .	<b>\$7,375,000</b>

NEW SECTION. **Sec. 153.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**  
 Bear Creek Corridor Land Acquisition (06-2-951)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for acquisition of land near Bear creek and Pearrygin lake state park.

Appropriation:

State Building Construction Account—State . . . . .	\$1,600,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0

TOTAL . . . . . \$1,600,000

NEW SECTION. Sec. 154. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Deferred Maintenance - Facilities (06-1-036)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely to reduce the backlog of maintenance and preservation of state park facilities.

Appropriation:

State Building Construction Account—State . . . . .	\$2,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$2,000,000

\*NEW SECTION. Sec. 155. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Hood Canal Aquatic Rehabilitation Program (06-4-850)

*The appropriation in this section is subject to the following conditions and limitations:*

*(1) The Puget Sound action team and the local management board shall develop a list of projects, studies, and activities relating to the recovery of Hood Canal in accordance with RCW 90.88.030. The list developed shall be based upon the project's likely value in addressing and resolving Hood Canal's low dissolved oxygen concentrations.*

*(2) The Puget Sound action team and the local management board shall recommend to the interagency committee for outdoor recreation and the governor a prioritized list of projects to be funded under subsection (1) of this section. The governor may remove projects from the list recommended by the Puget Sound action team and the local management board and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and the amount of recommended state funding.*

*(3) The interagency committee for outdoor recreation shall not sign contracts or otherwise financially obligate funds from the Hood Canal aquatic rehabilitation bond account before the legislature has appropriated funds for a specific list of projects. The legislature may remove projects from the list recommended by the Puget Sound action team and the local management board.*

Appropriation:

Hood Canal Aquatic Rehabilitation Bond Account—State . . . . .	\$1,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0



TOTAL . . . . . \$1,000,000

\*Sec. 155 was partially vetoed. See message at end of chapter.

Sec. 156. 2005 c 488 s 368 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Firearms and Archery Range Program (FARP) (98-2-004)

Reappropriation:

Firearms Range Account—State . . . . .	(( <u>\$31,478</u> ))
	<u>\$61,478</u>
Prior Biennia (Expenditures) . . . . .	\$542,191
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	((( <u>\$573,669</u> )))
	<u>\$603,669</u>

Sec. 157. 2005 c 488 s 369 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Nonhighway Off-road Vehicle Program (NOVA) (98-2-002)

Reappropriation:

Nonhighway and Off-Road Vehicle Activities Program Account—State . . . . .	((( <u>\$1,243,986</u> )))
	<u>\$1,322,986</u>
Prior Biennia (Expenditures) . . . . .	\$9,851,937
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	((( <u>\$11,095,923</u> )))
	<u>\$11,174,923</u>

Sec. 158. 2005 c 488 s 370 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Washington Wildlife and Recreation Program (WWRP) (98-2-003)

The reappropriations in this section are subject to the following conditions and limitations: Any amount of the reappropriations that is not obligated to a specific project may be used to fund alternate projects approved by the legislature from the same account in biennia succeeding that in which the moneys were originally appropriated.

Reappropriation:

Outdoor Recreation Account—State . . . . .	\$4,547,515
Habitat Conservation Account—State . . . . .	((( <u>\$1,170,894</u> )))
	<u>\$4,382,894</u>
Subtotal Reappropriation . . . . .	((( <u>\$5,718,409</u> )))
	<u>\$8,930,409</u>
Prior Biennia (Expenditures) . . . . .	\$71,883,173
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	((( <u>\$77,601,582</u> )))

\$80,813,582

Sec. 159. 2005 c 488 s 372 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Salmon Recovery Funding Board Programs (SRFB) (00-2-001)

Reappropriation:

General Fund—Federal . . . . .	(\$11,227,424)	
		<u>\$13,320,424</u>
Salmon Recovery Account—State . . . . .	(\$2,366,010)	
		<u>\$3,597,010</u>
Subtotal Reappropriation . . . . .	(\$13,593,434)	
		<u>\$16,917,434</u>
Prior Biennia (Expenditures) . . . . .	\$88,031,707	
Future Biennia (Projected Costs) . . . . .	\$0	
TOTAL . . . . .	(\$101,625,141)	
		<u>\$104,949,141</u>

Sec. 160. 2005 c 488 s 376 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Firearms and Archery Range Program (02-0-001)

Reappropriation:

Firearms Range Account—State . . . . .	(\$44,677)	
		<u>\$120,677</u>
Prior Biennia (Expenditures) . . . . .	\$355,323	
Future Biennia (Projected Costs) . . . . .	\$0	
TOTAL . . . . .	(\$400,000)	
		<u>\$476,000</u>

Sec. 161. 2005 c 488 s 382 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Wildlife and Recreation Program (WWRP) (02-4-003)

The reappropriations in this section are subject to the following conditions and limitations: Any amount of the reappropriations that is not obligated to a specific project may be used to fund projects in the following order: (1) The department of natural resources Cypress Island project; and (2) alternate projects approved by the legislature from the same account in biennia succeeding that in which the funds were originally appropriated.

Reappropriation:

Outdoor Recreation Account—State . . . . .	(\$2,041,864)	
		<u>\$3,525,864</u>
Habitat Conservation Account—State . . . . .	\$6,928,926	
Subtotal Reappropriation . . . . .	(\$8,970,790)	
		<u>\$10,454,790</u>

Prior Biennia (Expenditures) . . . . .	\$36,029,210
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$45,000,000)</u>
	<u>\$46,484,000</u>

Sec. 162. 2005 c 488 s 385 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Boating Facilities Program (BFP) (04-4-003)

Reappropriation:

Recreation Resources Account—State . . . . .	<u>(\$3,753,480)</u>
	<u>\$4,484,480</u>

Prior Biennia (Expenditures) . . . . .	\$3,753,479
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$7,506,959)</u>
	<u>\$8,237,959</u>

Sec. 163. 2005 c 488 s 386 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Firearms and Archery Range Program (04-4-006)

Reappropriation:

Firearms Range Account—State . . . . .	<u>(\$144,997)</u>
	<u>\$154,997</u>

Prior Biennia (Expenditures) . . . . .	\$105,003
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$250,000)</u>
	<u>\$260,000</u>

Sec. 164. 2005 c 488 s 387 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Family Forest Fish Blockages Program (04-4-011)

Reappropriation:

State Building Construction Account—State . . . . .	<u>(\$780,379)</u>
	<u>\$1,191,379</u>

Prior Biennia (Expenditures) . . . . .	\$1,219,621
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$2,000,000)</u>
	<u>\$2,411,000</u>

Sec. 165. 2005 c 488 s 390 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

National Recreation Trails Program (NRTP) (04-4-008)

Reappropriation:

General Fund—Federal . . . . .	<u>(\$1,130,000)</u>
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	<u>\$1,447,000</u>
Prior Biennia (Expenditures) . . . . .	\$1,130,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$2,260,000)</u>
	<u>\$2,577,000</u>

Sec. 166. 2005 c 488 s 391 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Nonhighway and Off-Road Vehicle Activities Program (NOVA) (04-4-004)

Reappropriation:

NOVA Program Account—State . . . . .	<u>(\$5,492,729)</u>
	<u>\$5,620,729</u>
Prior Biennia (Expenditures) . . . . .	\$1,433,581
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$6,926,310)</u>
	<u>\$7,054,310</u>

Sec. 167. 2005 c 488 s 392 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Salmon Recovery Funding Board Programs (SRFB) (04-4-001)

Reappropriation:

General Fund—Federal . . . . .	<u>(\$32,832,305)</u>
	<u>\$35,876,305</u>
State Building Construction Account—State . . . . .	<u>(\$11,500,000)</u>
	<u>\$13,885,000</u>
Subtotal Reappropriation . . . . .	<u>(\$44,332,305)</u>
	<u>\$49,761,305</u>
Prior Biennia (Expenditures) . . . . .	\$1,000,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<u>(\$45,332,305)</u>
	<u>\$50,761,305</u>

Sec. 168. 2005 c 488 s 395 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Boating Facilities Program (BFP) (06-4-003)

Appropriation:

Recreation Resources Account—State . . . . .	<u>(\$8,350,000)</u>
	<u>\$7,271,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$36,597,535
TOTAL . . . . .	<u>(\$44,947,535)</u>
	<u>\$43,868,535</u>

Sec. 169. 2005 c 488 s 398 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Family Forest Fish Passage Program (06-4-011)

The appropriations in this section are subject to the following conditions and limitations:

(1) The appropriation is provided solely for the salmon recovery funding board in consultation with the small forest landowner office of the department of natural resources and the department of fish and wildlife to provide grants to correct fish passage blockages on nonindustrial forest lands. Selection of projects must be coordinated with the other salmon recovery grant programs provided in section 403 of this act.

(2) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the committee shall file quarterly project progress reports with the office of financial management.

Appropriation:

State Building Construction Account—State .....	\$4,150,000
<u>General Fund—Federal .....</u>	<u>\$217,000</u>
<u>Subtotal Appropriation .....</u>	<u>\$4,367,000</u>
Prior Biennia (Expenditures) .....	\$0
Future Biennia (Projected Costs) .....	\$0
TOTAL .....	(\$4,150,000)
	\$4,367,000

**Sec. 170.** 2005 c 488 s 401 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Nonhighway and Off-Road Vehicle Program (NOVA) (06-4-004)

The appropriation in this section is subject to the following conditions and limitations: \$100,000 of the appropriation is for the following studies:

(1) The committee shall prepare cost estimates for creating a database of motorized and nonmotorized off-road trails and facilities in Washington state. The cost estimate shall consider the possibility of a database that allows the downloading of maps formatted for the most widely used GPS devices, including the feasibility and cost to make GPS maps readily available for all users of Washington recreational lands and facilities. For this purpose, available GPS maps shall include GPS maps developed by state agencies, by federal agencies, and proprietary maps offered by private companies.

(2) The committee shall recommend a program for enhanced education and enforcement regarding excessive noise from off-road vehicles. The study shall include a review of relevant existing laws and regulations. The recommendations shall address the appropriate equipment needed for enforcement, model ordinances, enhanced educational strategies, and a proposed grant program to assist local governments to more effectively reduce the impact of excessive ORV noise in rural residential neighborhoods and nonresidential areas, including consideration of grant programs for planning departments, code enforcement departments, health departments, or other entities of local government.

Appropriation:

Nonhighway and Off-Road Vehicle Activities	
Program Account—State . . . . .	\$7,579,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$39,946,858
TOTAL . . . . .	\$47,525,858

Sec. 171. 2005 c 488 s 402 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

National Recreation Trails Program (NRTP) (06-4-008)

Appropriation:

General Fund—Federal . . . . .	<del>(\$2,350,000)</del>
	<u>\$2,800,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$9,400,000
TOTAL . . . . .	<del>(\$11,750,000)</del>
	<u>\$12,200,000</u>

NEW SECTION. Sec. 172. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Youth Athletic Fields (06-2-952)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for competitive grants for acquisition, development, and renovation of youth athletic fields. The committee shall follow the applicable rules of the youth athletic facilities program, except that grants for maintenance are not eligible. The committee shall accept private donations for youth athletic fields and deposit them in the youth athletic facility account. For every \$500,000 in private donations received, the committee shall match those funds with \$500,000 from the appropriation provided in this section and award grants totaling \$1,000,000 to the highest priority projects. The committee is authorized to expend up to five percent of the appropriation for administration of the program and for publicizing the program, especially to owners, players, and fans of Washington's major league professional sports teams.

Appropriation:

State Building Construction Account—State . . . . .	\$2,500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$2,500,000

Sec. 173. 2005 c 488 s 414 (uncodified) is amended to read as follows:

**FOR THE STATE CONSERVATION COMMISSION**

Skokomish Anaerobic Digester (06-4-009)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for a grant to the Mason conservation district for construction of an anaerobic digester in the Skokomish river watershed. Up to ~~(((\$50,000))~~ \$65,000 of this amount may be spent on completing design concepts and feasibility analysis. The remaining funds shall be allotted only after the following has occurred: (1) Mason conservation district secures nonstate matching funds or in-kind contributions of at least twenty-five percent of the total project cost; (2) a feasibility study is completed and submitted to the Puget Sound action team and the state conservation commission; and (3) the Puget Sound action team and the state conservation commission approve the project proposal.

Appropriation:

State Building Construction Account—State . . . . .	\$560,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$560,000

Sec. 174. 2005 c 488 s 425 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Facility, Infrastructure, Lands, and Access Condition Improvements (06-1-002)

The appropriations in this section are subject to the following limitations: \$5,000 of the appropriation in this section is provided solely for bank stabilization of the south Toledo access road.

Appropriation:

General Fund—Federal . . . . .	\$650,000
State Building Construction Account—State . . . . .	\$6,457,000
Subtotal Appropriation . . . . .	\$7,107,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$26,600,000
TOTAL . . . . .	\$33,707,000

Sec. 175. 2005 c 488 s 427 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Fish and Wildlife Population and Habitat Protection (06-1-003)

The appropriations in this section are subject to the following conditions and limitations:

~~((2))~~ (1) It is the intent of the legislature that expenditures from the wildlife account—state appropriation shall only be made to the extent funds are available in the account and will not result in a reduction to other programs or activities.

(2) The department of fish and wildlife, in coordination with the department of natural resources, shall seek compensation for state-owned capital structures in the Wooten wildlife area damaged in the school fire. Any compensation received by the department shall be deposited in the state wildlife account.

Appropriation:

General Fund—Federal . . . . .	\$2,830,000
General Fund—Private/Local . . . . .	\$3,500,000
State Building Construction Account—State . . . . .	<del>(\$500,000)</del>
	<u>\$525,000</u>
Wildlife Account—State . . . . .	\$600,000
Subtotal Appropriation . . . . .	<del>(\$7,430,000)</del>
	<u>\$7,455,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$34,920,000
TOTAL . . . . .	<del>(\$42,350,000)</del>
	<u>\$42,375,000</u>

NEW SECTION. Sec. 176. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Land Acquisition Pass-Thru Grants (06-4-018)

Appropriation:

Wildlife Account—Federal . . . . .	\$3,300,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$3,300,000

NEW SECTION. Sec. 177. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Department of Natural Resources - Department of Fish and Wildlife Land Exchange - Shrub Steppe (06-2-851)

The appropriation in this section is subject to the following conditions and limitations: Funding is provided solely to appraise the value of lands for exchange with the department of natural resources. Forest lands transferred to the department of natural resources under this section shall be actively managed by the department under a cooperative agreement with surrounding public and private landowners to implement landscape scale restoration and other management objectives.

Appropriation:

State Building Construction Account—State . . . . .	\$500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$500,000

NEW SECTION. Sec. 178. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Alternative Mitigation Exchange Service (06-2-852)

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for contract



services with the association of Washington cities and the Washington state association of counties for the purpose of developing and demonstrating an alternative mitigation exchange service in Vancouver and Clark county. The purposes of the exchange are to improve the environmental value of permit decision-making and to accomplish permit streamlining objectives.

Appropriation:

State Building Construction Account—State . . . . .	\$200,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$200,000

**NEW SECTION. Sec. 179.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Estuary and Salmon Restoration in Puget Sound (06-2-001)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The appropriation is provided solely for nearshore estuary and shoreline projects supporting salmon recovery in Puget Sound.
- (2) Project selection and funding decisions shall be submitted for approval to the executive committee of the Puget Sound nearshore partnership between the department and the United States army corps of engineers.
- (3) Funded projects require a nonstate match or in-kind contributions. The match requirements must be approved by the executive committee identified in subsection (2) of this section.
- (4) Project selection and funding decisions must be coordinated with the salmon recovery funding board to ensure that project funding and matching requirements are maximized to the greatest extent possible.
- (5) The department shall not utilize any amount of this appropriation to support administration or overhead. Funding to support the administration of the funds and the implementation of selected projects must be obtained from the department's operating budget.
- (6) Eligible projects must be within Puget Sound and identified in a current salmon recovery plan.
- (7) All funds must be obligated to a specific project or projects no later than October 15, 2006.
- (8) The department shall submit a report to the legislature and the office of financial management by November 1, 2006. The report must describe the status of all projects authorized for funding under this appropriation, including project location, implementation timeline, performance measures, funding structure, matching funds, and expected results.

Appropriation:

State Building Construction Account—State . . . . .	\$2,500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$5,000,000
TOTAL . . . . .	\$7,500,000

*\*NEW SECTION. Sec. 180. A new section is added to 2005 c 488 (uncodified) to read as follows:*

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**  
*Consolidate Downtown Olympia Functions (06-2-950)*

*The appropriation in this section is subject to the following conditions and limitations: The department shall consolidate functions and services provided at its downtown Olympia facilities with other state agencies providing those functions. The department shall vacate the downtown Olympia facilities by June 30, 2007, and transfer responsibility to dispose of the surplus property to the department of general administration. The department of general administration will work with the city of Olympia on necessary plans and permits that will allow sale of the property at the highest price. The department of general administration will submit a plan for disposal of the property to the fiscal committees of the legislature by June 30, 2007. The proceeds of the eventual disposal of the surplus property shall be deposited in the wildlife account for future use in the construction of the Deschutes watershed center.*

*Appropriation:*

<i>State Building Construction Account—State</i> . . . . .	<i>\$100,000</i>
<i>Prior Biennia (Expenditures)</i> . . . . .	<i>\$0</i>
<i>Future Biennia (Projected Costs)</i> . . . . .	<i>\$0</i>
<b>TOTAL</b> . . . . .	<b>\$100,000</b>

*\*Sec. 180 was vetoed. See message at end of chapter.*

*NEW SECTION. Sec. 181. A new section is added to 2005 c 488 (uncodified) to read as follows:*

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**  
*Skookumchuck Habitat Preservation (06-2-951)*

*The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the acquisition of shrub steppe lands in Kittitas county near Skookumchuck creek.*

*Appropriation:*

<i>State Building Construction Account—State</i> . . . . .	<i>\$800,000</i>
<i>Prior Biennia (Expenditures)</i> . . . . .	<i>\$0</i>
<i>Future Biennia (Projected Costs)</i> . . . . .	<i>\$0</i>
<b>TOTAL</b> . . . . .	<b>\$800,000</b>

*NEW SECTION. Sec. 182. A new section is added to 2005 c 488 (uncodified) to read as follows:*

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**  
*Department of Fish and Wildlife Ranch Lands Irrigation Efficiencies (06-2-952)*

*The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for irrigation efficiency projects on ranch lands owned by the department.*

Appropriation:

State Building Construction Account—State . . . . .	\$600,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$600,000

**NEW SECTION. Sec. 183.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

Deschutes Watershed Center (06-2-008)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the design of the Deschutes Watershed center.

Appropriation:

State Building Construction Account—State . . . . .	\$850,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$24,700,000
TOTAL . . . . .	\$25,550,000

**Sec. 184.** 2005 c 488 s 443 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Land Bank (06-2-015)

The appropriation in this section is subject to the following conditions and limitations:

(1) Prior to purchase or disposal of properties, the department shall consult with other natural resource agencies to ensure the properties marked for purchase or disposal are not eligible for trust land transfers.

(2) The department shall not acquire new commercial properties prior to the completion of the study by the state investment board of the performance of the department's commercial properties portfolio. The department shall cooperate with the state investment board and their consultants in the work required by the study.

(3) The department shall also prepare an inventory of acquisitions, sales, transfers, or exchanges of water rights within the past ten years. This inventory shall be submitted in a report to the appropriate committees of the legislature by December 1, 2006. The report shall also estimate the cost of a study to inventory all water rights that are connected to existing state lands.

Appropriation:

Resources Management Cost Account—State . . . . .	\$5,000,000
Prior Biennia (Expenditures) . . . . .	\$10,462,000
Future Biennia (Projected Costs) . . . . .	\$40,000,000
TOTAL . . . . .	\$55,462,000

**Sec. 185.** 2005 c 488 s 451 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Small Timber Landowner (FREP) (06-2-019)

The appropriation in this section is subject to the following conditions and limitations:

(1) In addition to the annual project progress reporting requirement of RCW 43.88.160(3), the department shall file quarterly project progress reports with the office of financial management.

(2) The department may not expend more than (~~(\$200,000)~~) \$300,000 of the appropriation for administrative or staff costs.

Appropriation:

State Building Construction Account—State . . . . .	\$8,000,000
Prior Biennia (Expenditures) . . . . .	\$7,750,000
Future Biennia (Projected Costs) . . . . .	\$40,000,000
TOTAL . . . . .	\$55,750,000

NEW SECTION. Sec. 186. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Federal HCP Land Acquisition Grants (06-2-950)

Appropriation:

General Fund—Federal . . . . .	\$6,720,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$6,720,000

**Sec. 187.** 2005 c 488 s 453 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Statewide Aquatic Restoration Projects (06-2-008)

The appropriations in this section are subject to the following conditions and limitations: \$2,000,000 of the state toxics control account—state appropriation is provided solely for costs related to removal of creosote logs and pilings in Puget Sound.

Appropriation:

Aquatic Lands Enhancement Account—State . . . . .	\$300,000
State Toxics Control Account—State . . . . .	\$2,000,000
State Building Construction Account—State . . . . .	\$150,000
Subtotal Appropriation . . . . .	<del>(\$450,000)</del>
	<u>\$2,450,000</u>
Prior Biennia (Expenditures) . . . . .	\$200,000
Future Biennia (Projected Costs) . . . . .	\$1,200,000
TOTAL . . . . .	<del>(\$1,850,000)</del>
	<u>\$3,850,000</u>

NEW SECTION. Sec. 188. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Natural Heritage Program (06-2-854)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the natural heritage program to conduct surveys and inventory rare plants, animals, and vegetation communities on state lands needed for long-term asset management decisions.

Appropriation:

State Building Construction Account—State . . . . .	\$200,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$200,000

**NEW SECTION. Sec. 189.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Old Growth Forest Inventory (06-2-855)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section is provided solely to conduct an inventory of old growth forests located on state lands east of the crest of Cascade mountains. The inventory is intended to be a continuation of the inventory conducted pursuant to section 905, chapter 277, Laws of 2004, and must be completed in two phases.

(2) In conducting the inventory required by this section, the department of natural resources shall reconvene a scientific panel with membership consistent with the structure created in section 905, chapter 277, Laws of 2004, and direct the panel to review the best available applicable scientific information. The panel shall also develop a definition for old-growth trees and stands located east of the crest of the Cascade mountains using attributes measured in department of natural resources inventory plots.

(3) The first phase of the inventory required by this section shall be completed by July 1, 2007. In the first phase, the panel shall identify reference stands for old-growth ponderosa pine, dry mixed conifer species, and pine-oak plant associations.

(4) The second phase of the inventory required by this section shall be completed by December 15, 2007. In the second phase, the department of natural resources shall use the definition provided by the scientific panel under subsection (2) of this section to produce an inventory of old growth forests located on state lands east of the crest of Cascade mountains. The inventory must include:

(a) Maps that illustrate the distribution of forest stands containing old-growth ponderosa pine, dry mixed-conifer species, and pine-oak plant associations, including sites with residual old-growth ponderosa pine trees; and

(b) Tables describing the number of acres of old-growth stands in each county, forest type, and department of natural resources' administrative unit.

(5) The department of natural resources shall report the information required by this section to the appropriate committees of the legislature.

(6) Until the completion of the inventory required by this section, the department of natural resources may not cut or remove any Douglas fir, ponderosa pine, or larch trees from state lands located east of the crest of the

Cascade mountains if the tree is one hundred sixty years in age or older and has a diameter of twenty-eight inches or more when measured at breast height, unless removal of the tree is determined by the department of natural resources to be necessary to prevent an imminent physical or ecological hazard or otherwise satisfy a safety concern.

Appropriation:

Resource Management Cost Account—State . . . . .	\$100,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$100,000

**NEW SECTION. Sec. 190.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

Deep Water Geoduck and Sea Cucumber Population Surveys (06-2-850)

Appropriation:

State Building Construction Account—State . . . . .	\$650,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$650,000

**NEW SECTION. Sec. 191.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

Energy Freedom Program (E3SHB No. 2939) (06-2-850)

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation is provided solely to implement the energy freedom program created in chapter . . . (Engrossed Third Substitute House Bill No. 2939), Laws of 2006. If the bill is not enacted by June 30, 2006, the appropriation shall lapse.

(2) The department shall not expend more than \$202,000 of the appropriation on administrative costs.

Appropriation:

Energy Freedom Account—State . . . . .	\$6,750,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$6,750,000

**NEW SECTION. Sec. 192.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

Energy Freedom Program (06-2-851)

The appropriation in this section is subject to the following conditions and limitations:

(1)(a) The appropriation is provided solely for low-interest loans to political subdivisions for renewable energy projects including the development of biofuel oilseed crushers, supporting infrastructure, and facilities. The political subdivision may negotiate an appropriate agreement with the bioenergy industry for the use of the oilseed crushers, supporting infrastructure, and facilities.

(b) For purposes of this section, political subdivision means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state.

(2) The appropriation is provided solely for the following list of projects:

<b>Project</b>	<b>Recommendation</b>
Spokane Conservation district	\$2,000,000
Port of Warden	\$2,500,000
Odessa public development authority	\$2,500,000
Port of Columbia county	\$2,500,000
Port of Sunnyside	\$750,000
<b>Total</b>	<b>\$10,250,000</b>

(3) All agreements negotiated between the political subdivision and the bioenergy industry for use of the oilseed crushers, supporting infrastructure, or facilities funded in this section must provide for at least a fifty percent match by the industry partner. The industry match may include, but is not limited to, investments in rail, buildings, refining capacity, or seed stock.

(4) All other project funds must be disbursed prior to energy freedom loans, except where required on a matching basis by other federal or state programs.

(5) The department shall disburse loans to the political subdivision on a reimbursement basis only.

(6) The department may defer loan repayment for up to twenty-four months or until the projects start to receive revenue from operations, whichever is sooner.

(7) Upon written notice to the political subdivision, the department may suspend or cancel its loans if any of the following occur:

(a) The political subdivision fails to make satisfactory and reasonable progress to complete the project, or the department concludes the political subdivision will be unable to complete the project or any portion of it; or

(b) The political subdivision or bioenergy industry partners have made misrepresentations in any information furnished to the department or the legislature in connection with the project.

(8) In the event that any portion of the loan has been paid to the political subdivision under this section at the time of breach, or failure of the political subdivision to satisfactorily perform, the department may require that the full amount of the loan, or a portion thereof, be repaid within a period specified by the department.

(9) Future loan repayments shall be deposited into the energy freedom account created in section 6, chapter . . . (Engrossed Third Substitute House Bill No. 2939), Laws of 2006.

(10) It is the intent of the legislature to provide loans for the development of a Washington state biodiesel industry based on Washington grown oilseed. The

legislature is aware that in the development of this industry, the start-up process may necessitate the use of other oilseeds until Washington state growers plant sufficient crops to support this industry. The legislature also understands the realities of weather and market conditions in this process. The conversion to maximum Washington grown oilseed must be accomplished as quickly as possible. The political subdivision shall: (a) Develop a plan for outreach to local growers and an estimate of when maximum Washington state oilseed-based production will be reached; (b) develop a goal for the political subdivision to return a portion of the biofuel to local oilseed producers; and (c) report this information to the department of agriculture by December 1, 2006. The department shall report on the implementation of this section by January 1, 2007, to the appropriate committees of the legislature.

Appropriation:

Energy Freedom Account—State . . . . .	\$10,250,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$10,250,000

Sec. 193. 2005 c 488 s 601 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD OF EDUCATION**

Common School Construction Account Deposits

The appropriations in this section are subject to the following conditions and limitations:

- (1) (~~(\$15,000,000)~~) \$33,766,000 in fiscal year 2006 and \$15,000,000 in fiscal year 2007 of the education savings account appropriation shall be deposited in the common school construction account.
- (2) \$99,737,000 of the education construction account appropriation shall be deposited in the common school construction account.

Appropriation:

Education Savings Account—State . . . . .	<del>(\$30,000,000)</del>
	<u>\$48,766,000</u>
Education Construction Account—State . . . . .	\$99,737,000
Subtotal Appropriation . . . . .	<del>(\$129,737,000)</del>
	<u>\$148,503,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	<del>(\$129,737,000)</del>
	<u>\$148,503,000</u>

Sec. 194. 2005 c 488 s 605 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD OF EDUCATION**

School Construction Assistance Program (06-4-100)

The appropriations in this section are subject to the following conditions and limitations:

- (1) For state assistance grants for purposes of calculating square foot eligibility, kindergarten student headcount shall not be reduced by fifty percent.



(2) (~~(\$14,439,000)~~) (a) \$14,889,000 from this appropriation is provided solely for projects at skills centers that are included on the prioritized list of capital items and major capital project list submitted by the state board of education (~~and~~).

(b) \$150,000 from this appropriation is provided solely for a comprehensive feasibility study for the development of a skills center in Skagit county.

(c) \$400,000 from this appropriation is provided solely for comprehensive feasibility studies for the development of skills centers in the following targeted areas: Moses Lake, northeast King county, Pierce county, and Seattle. Skills centers shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed expenditures and the proposed expenditures shall conform to state board of education rules and procedures for reimbursement of capital items. The state board of education shall develop a plan to include skills center capital requests within the state construction assistance program.

(3) \$156,155,000 of this appropriation is provided solely to increase the area cost allowance by \$12.14 per square foot for grades K-12 for fiscal year 2006, an additional \$12.27 per square foot for grades K-12 for fiscal year 2007, the student square footage allocation in fiscal year 2007 in accordance with the first step in the state board of education six-year plan, and the amount of state assistance provided for modernization and new in-lieu projects to one hundred percent of the area cost allowance.

(4) The appropriation in this section includes the amounts deposited in the common school construction account under section 601 of this act.

Appropriation:

State Building Construction Account—State . . . . .	\$130,200,000
Common School Construction Account—State . . . . .	<del>(\$474,853,000)</del>
	<u>\$511,566,000</u>
Subtotal Appropriation . . . . .	<del>(\$605,053,000)</del>
	<u>\$641,766,000</u>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$2,832,159,000
TOTAL . . . . .	<del>(\$3,437,212,000)</del>
	<u>\$3,473,925,000</u>

*\*Sec. 195. 2005 c 488 s 606 (uncodified) is amended to read as follows:*

**FOR THE STATE BOARD OF EDUCATION  
Environmental Learning Centers (06-2-951)**

*The appropriation in this section is subject to the following conditions and limitations:*

(1) *\$1,950,000 from this appropriation is provided solely for capital projects at the Chewelah peak learning center. The Chewelah peak learning center shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed expenditures.*

(2) *\$400,000 of this appropriation is provided solely for capital projects at Camp Waskowitz learning center. Camp Waskowitz shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed expenditures.*

(3) \$500,000 of the appropriation from the common school construction account is provided solely for capital projects at IslandWood education center on Bainbridge island. IslandWood shall submit a budget plan to the state board of education and the appropriate fiscal committees of the legislature for proposed expenditures.

Appropriation:

State Building Construction Account—State . . . . .	\$2,350,000
<u>Common School Construction Account—State</u>	<u>\$500,000</u>
<b>Subtotal Appropriation . . . . .</b>	<b>\$2,850,000</b>
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
<b>TOTAL . . . . .</b>	<b>(\$2,350,000)</b>
	<b>\$2,850,000</b>

\*Sec. 195 was vetoed. See message at end of chapter.

Sec. 196. 2005 c 488 s 607 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD OF EDUCATION**

Apple Award Construction Achievement Grants (06-4-850)

The appropriation in this section is subject to the following conditions and limitations: Grants of \$25,000 are provided to public elementary schools whose students have shown the greatest combined average increase in the percentage of students meeting the fourth grade reading, mathematics, and writing standards on the Washington assessment of student learning from school year 2003-04 as compared to school year 2004-05 and school year 2004-05 as compared to school year 2005-06 ((and 2006-07)). \$250,000 shall be available for awards in ((2005-06)) fiscal year 2006 and \$250,000 in ((2006-07)) fiscal year 2007. The program shall be administered by the state board of education which shall determine categories for selection that provides geographic and school district size representation.

The grants shall be used for capital construction purposes as determined by the students in the schools and approved by the district's school directors. The funds may be used exclusively for capital construction projects on school property or on other public property in the community, city, or county in which the school is located.

Appropriation:

Education Construction Account—State . . . . .	\$500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
<b>TOTAL . . . . .</b>	<b>\$500,000</b>

Sec. 197. 2005 c 488 s 609 (uncodified) is amended to read as follows:

~~((FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION))~~ **FOR THE STATE BOARD OF EDUCATION**

High Performance Buildings (06-4-852)

The appropriation in this section is subject to the following conditions and limitations: Additional funding will be provided to school districts constructing public schools to recognized standards for high performance public buildings for

a transition period of three years. The districts building high performance public schools will be granted funding per school project for capital-related costs associated with the design and construction of public K-12 schools that meet or exceed comprehensive design, construction, and operating standards for high performance and sustainable school buildings. No more than \$250,000 will be allotted for each elementary school built to high performance standards, no more than \$350,000 will be allotted for each middle school built to high performance standards, and no more than \$500,000 will be allotted to each high school built to high performance standards. These levels may be modified, in a limited manner, if specific project conditions warrant and as determined by the office of the superintendent of public instruction. The state board of education and the office of the superintendent of public instruction shall not expend more than \$195,000 of the appropriation for administrative costs.

Appropriation:

State Building Construction Account—State . . . . .	\$6,500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$13,000,000
TOTAL . . . . .	\$19,500,000

**Sec. 198.** 2005 c 488 s 610 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

State School Construction Assistance Program Administration (06-2-001)

The appropriation in this section is subject to the following conditions and limitations: \$76,000 of the common school construction account—state appropriation is provided solely to implement chapter ... (Substitute House Bill No. 3098), Laws of 2006. If the bill is not enacted by June 30, 2006, the appropriation shall lapse.

Appropriation:

Common School Construction Account—State . . . . .	<del>(\$2,279,004)</del>
	\$2,355,004
Prior Biennia (Expenditures) . . . . .	\$3,969,379
Future Biennia (Projected Costs) . . . . .	\$10,554,882
TOTAL . . . . .	<del>(\$16,803,265)</del>
	\$16,879,265

**\*NEW SECTION. Sec. 199.** *A new section is added to 2005 c 488 (uncodified) to read as follows:*

**FOR THE STATE BOARD OF EDUCATION**

*School Acoustic Grants (06-2-953)*

*The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for grants to school districts for demonstration projects to test the effect of using sound amplification technology in classrooms to improve student learning. The school districts selected shall represent various regions of the state and reflect differences in school district size and enrollment characteristics. Grant recipients must provide a one to one match and must provide outcome measures that show the*

*effect on student learning five years after implementation of the technology. The state board of education shall compile the outcome data and report it to the appropriate committees of the legislature. The state board may retain a maximum of ten percent of the appropriation for administration of the grant program.*

**Appropriation:**

Common School Construction Account—State	\$250,000
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$0
<b>TOTAL</b>	<b>\$250,000</b>

\*Sec. 199 was vetoed. See message at end of chapter.

**Sec. 200.** 2005 c 488 s 612 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE BLIND**

Campus Preservation (06-1-003)

**Appropriation:**

State Building Construction Account—State	<del>(\$700,000)</del>	\$900,000
Prior Biennia (Expenditures)		\$0
Future Biennia (Projected Costs)		\$2,800,000
<b>TOTAL</b>	<del>(\$3,500,000)</del>	<b>\$3,700,000</b>

**Sec. 201.** 2005 c 488 s 613 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE DEAF**

Omnibus Minor Works - Preservation (06-1-002)

**Appropriation:**

State Building Construction Account—State	<del>(\$200,000)</del>	\$400,000
Prior Biennia (Expenditures)		\$0
Future Biennia (Projected Costs)		\$775,000
<b>TOTAL</b>	<del>(\$975,000)</del>	<b>\$1,175,000</b>

**Sec. 202.** 2005 c 488 s 632 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Guggenheim Hall Renovation (06-1-006)

The appropriations in this section ~~(is)~~ are subject to the following conditions and limitations: No money from the appropriation in this section may be expended on surge space.

**Appropriation:**

State Building Construction Account—State	<del>(\$24,500,000)</del>	\$15,211,500
Education Construction Account—State		\$9,288,500
<b>Subtotal Appropriation</b>		<b>\$24,500,000</b>

Prior Biennia (Expenditures) . . . . .	\$1,812,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$26,312,000

NEW SECTION. Sec. 203. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

Cleanup More Hall and Other Toxics/Shift Funds to Nanotechnology (06-1-950)

Appropriation:

State Toxics Control Account—State . . . . .	\$4,500,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$4,500,000

NEW SECTION. Sec. 204. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

UW Tacoma Land Acquisition (06-2-852)

Appropriation:

Gardner-Evans Higher Education Construction Account—State . . . . .	\$4,000,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$4,000,000

**Sec. 205.** 2005 c 488 s 650 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

WSU Pullman - Biotechnology/Life Sciences 2 (04-2-085)

Reappropriation:

Washington State University Building Account—State . . . . .	\$1,400,000
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Appropriation:

<u>Gardner-Evans Higher Education Construction</u> <u>Account—State . . . . .</u>	<u>\$10,000,000</u>
Prior Biennia (Expenditures) . . . . .	\$3,250,000
Future Biennia (Projected Costs) . . . . .	<del>(\$45,000,000)</del>
TOTAL . . . . .	<u>\$56,000,000</u> <del>(\$49,650,000)</del> <u>\$70,650,000</u>

NEW SECTION. Sec. 206. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

Martin Williamson Renovation (06-1-706)

Appropriation:

Gardner-Evans Higher Education Construction Account—State . . . . .	\$200,000
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Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$24,238,000
TOTAL . . . . .	\$24,438,000

**NEW SECTION. Sec. 207.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**  
Patterson Hall Remodel (06-2-002)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State . . . . .	\$200,000

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$26,078,000
TOTAL . . . . .	\$26,278,000

**NEW SECTION. Sec. 208.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**  
Replace Chiller (06-1-025)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State . . . . .	\$1,880,000

Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$1,880,000

**Sec. 209.** 2005 c 488 s 696 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**  
Seminar Building Phase II - Construction (02-2-004)

The reappropriation in this section is subject to the following conditions and limitations: The reappropriation shall not be used for vehicles, laptop computers, small printers, disposable items, or other items with a useful life of less than one year.

Reappropriation:

The Evergreen State College Capital Projects	
Account—State . . . . .	\$700,000

Appropriation:

<u>Gardner-Evans Higher Education Construction</u>	
<u>Account—State . . . . .</u>	<u>\$4,250,000</u>

Prior Biennia (Expenditures) . . . . .	\$42,550,000
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	(\$43,250,000)
	\$47,500,000

**Sec. 210.** 2005 c 488 s 714 (uncodified) is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**  
Campus Roadway Development (04-2-073)

The reappropriation in this section is subject to the following conditions and limitations:

(1) The purpose of the reappropriation is to complete a predesign of potential south campus roadway options and general circulation issues that avoids significant impacts on adjacent neighborhoods and conforms to the city of Bellingham traffic plans.

(2) The predesign shall also investigate options to achieve higher rates of alternative modes of transportation among faculty, staff, and students, minimize surface parking, and make improvements for traffic circulation, including public transit. Safe movement of pedestrians and bicyclists shall be a priority.

(3) Allotment for predesign is contingent upon the completion of a communication and public involvement plan for this project that is consistent with the significant projects section of the Western Washington University institutional master plan and adjacent neighborhood plans adopted by the city of Bellingham, the city of Bellingham Western Washington University neighborhood plan, and the neighborhood meeting requirements contained in Bellingham municipal code 20.40.060. The communication and public involvement plan shall seek to maximize public input through coordination of the planning effort with established neighborhood advisory groups and boards recognized by the city of Bellingham.

Reappropriation:

Western Washington University Capital Projects	
Account—State . . . . .	(( <del>\$38,826</del> ))
	<u>\$36,466</u>
Prior Biennia (Expenditures) . . . . .	\$290,174
Future Biennia (Projected Costs) . . . . .	<u>\$0</u>
<b>TOTAL</b> . . . . .	<b><u>\$326,640</u></b>

*\*NEW SECTION. Sec. 211. A new section is added to 2005 c 488 (uncodified) to read as follows:*

**FOR THE STATE ARTS COMMISSION**  
**State Capitol Sundial Repair (06-4-850)**

*The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for a competitive grant for the redesign and repair of the gnomon on the capitol campus sundial. All Washington public community and technical colleges are encouraged to submit design proposals to the Washington state arts commission by December 31, 2006. Final selection shall be made by the commission.*

**Appropriation:**

State Building Construction Account—State . . . . .	\$5,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	<u>\$0</u>
<b>TOTAL</b> . . . . .	<b><u>\$5,000</u></b>

\*Sec. 211 was vetoed. See message at end of chapter.

**Sec. 212.** 2005 c 488 s 733 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

Statewide - Washington Heritage Project Grants (06-4-004)

The appropriation in this section is subject to the following conditions and limitations:

- (1) The appropriation is subject to the provisions of RCW 27.34.330.
- (2) The appropriation is provided solely for the following list of projects:

<b>Project</b>	<b>Amount Recommended</b>
Whatcom museum of history and art	\$133,303
Fort Walla Walla museum	\$150,000
Northwest maritime center	\$345,000
Squaxin Island tribal museum library and research center	\$210,539
Confluence project	\$500,000
City of Tumwater	\$70,901
City of Tacoma	\$350,000
Fox theater	\$102,000
Shoreline historical museum	\$143,578
Metro park district of Tacoma	\$35,000
Seattle parks department	\$150,000
Armed forces and aerospace museum	\$295,000
City of Lynnwood	\$85,294
Meadowbrook farm interpretive center	\$72,149
Center for wooden boats	\$100,000
Bainbridge Island historical society	\$207,957
Quileute tribal council	\$150,000
Northwest railway museum	\$360,000
Port Gamble S'Klallam tribe	\$363,579
Concrete heritage museum association	\$12,750
Quincy Valley historical society and museum	\$23,300
Foss waterway development authority	\$250,000
Broadway center for the performing arts	\$225,000
Village theatre	\$65,581
White river valley museum	\$99,069
Cascade land conservancy	\$112,500
<u>Nunez Gaona veterans park</u>	<u>\$51,000</u>
<b>TOTAL</b>	<b><u>(\$4,612,500)</u></b>
	<b><u>\$4,663,500</u></b>

Appropriation:

State Building Construction Account—State	(((\$4,612,500))
	<u>\$4,663,500</u>
Prior Biennia (Expenditures)	\$0
Future Biennia (Projected Costs)	\$16,000,000
<b>TOTAL</b>	<b><u>(\$20,612,500)</u></b>
	<u>\$20,663,500</u>

NEW SECTION. Sec. 213. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**



Preservation of Women's History Documents (06-2-950)

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for the preservation of documents that are important in revealing the role of women in the history of the region and the role Washington women played in the nation's history.

Appropriation:

State Building Construction Account—State . . . . .	\$200,000
Prior Biennia (Expenditures) . . . . .	\$0
Future Biennia (Projected Costs) . . . . .	\$0
TOTAL . . . . .	\$200,000

**Sec. 214.** 2005 c 488 s 777 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Everett Community College: Undergraduate Education Center (04-2-692)

Appropriation:

State Building Construction Account—State . . . . .	\$7,363,700
<u>Gardner-Evans Higher Education Construction</u>	
<u>Account—State . . . . .</u>	<u>\$3,844,000</u>
<u>Subtotal Appropriation . . . . .</u>	<u>\$11,207,700</u>
Prior Biennia (Expenditures) . . . . .	\$126,000
Future Biennia (Projected Costs) . . . . .	(\$27,407,540)
	<u>\$38,103,591</u>
TOTAL . . . . .	(\$34,897,240)
	<u>\$49,437,291</u>

**Sec. 215.** 2005 c 488 s 795 (uncodified) is amended to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Skagit Valley College: Science Building Replacement (04-1-209)

Reappropriation:

State Building Construction Account—State . . . . .	\$14,664
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Appropriation:

State Building Construction Account—State . . . . .	\$2,693,000
<u>Gardner-Evans Higher Education Construction</u>	
<u>Account—State . . . . .</u>	<u>\$325,000</u>
<u>Subtotal Appropriation . . . . .</u>	<u>\$3,018,000</u>
Prior Biennia (Expenditures) . . . . .	\$285,336
Future Biennia (Projected Costs) . . . . .	(\$24,268,049)
	<u>\$26,693,049</u>
TOTAL . . . . .	(\$27,261,049)
	<u>\$30,011,049</u>

**NEW SECTION. Sec. 216.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Seattle Central Community College: Maritime Academy Repairs (06-1-502)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State. . . . .	\$268,000
Prior Biennia (Expenditures). . . . .	\$0
Future Biennia (Projected Costs). . . . .	\$1,588,000
TOTAL . . . . .	\$1,856,000

NEW SECTION. Sec. 217. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Green River College: Water System Replacement (06-1-501)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State. . . . .	\$1,951,000
Prior Biennia (Expenditures). . . . .	\$0
Future Biennia (Projected Costs). . . . .	\$0
TOTAL . . . . .	\$1,951,000

NEW SECTION. Sec. 218. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Highline Community College: Primary Power Branch Replacement (06-1-503)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State. . . . .	\$1,717,000
Prior Biennia (Expenditures). . . . .	\$0
Future Biennia (Projected Costs). . . . .	\$0
TOTAL . . . . .	\$1,717,000

NEW SECTION. Sec. 219. A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE COMMUNITY AND TECHNICAL COLLEGE SYSTEM**

Skagit Valley College: Campus Fire Loop Replacement (06-1-504)

Appropriation:

Gardner-Evans Higher Education Construction	
Account—State. . . . .	\$1,634,000
Prior Biennia (Expenditures). . . . .	\$0
Future Biennia (Projected Costs). . . . .	\$0
TOTAL . . . . .	\$1,634,000

**Sec. 220.** 2005 c 488 s 905 (uncodified) is amended to read as follows:  
(1) To ensure that minor works appropriations are carried out in accordance with legislative intent, funds appropriated in this act shall not be allotted until project lists are on file at the office of financial management (~~and the office of financial management has formally approved the lists. Proposed revisions~~), the house of representatives capital budget committee, and the senate ways and

means committee. All projects must meet the criteria included in subsection (2)(a) of this section. Revisions to the lists must be filed with ((and approved by)) the office of financial management, the house of representatives capital budget committee, and the senate ways and means committee and include an explanation of variances from the prior list before funds may be expended on the revisions.

(2)(a) Minor works projects are single line appropriations that shall include multiple projects valued between \$25,000 and \$1,000,000 each that are of a similar nature and can ~~((generally))~~ be completed within two years of the appropriation with the funding provided. These projects cannot be combined with or be a part of an overall project, that if combined over a continuous period of time, would exceed \$1,000,000. Minor works categories include (i) health, safety, and code requirements; (ii) facility preservation; (iii) infrastructure preservation; and (iv) program improvement or expansion. Improvements for accessibility in compliance with the Americans with disabilities act may be included in any of the above minor works categories.

(b) Minor works appropriations shall not be used for, among other things: Studies, except for technical or engineering reviews or designs that lead directly to and support a project on the same minor works list; planning; design outside the scope of work on a minor works list; moveable, temporary, and traditionally funded operating equipment not in compliance with the equipment criteria established by the office of financial management; software not dedicated to control of a specialized system; moving expenses; land or facility acquisition; or to supplement funding for projects with funding shortfalls unless expressly authorized elsewhere in this act. The office of financial management may make an exception to the limitations described in this subsection (2)(b) for exigent circumstances after notifying the legislative fiscal committees and waiting ten days for comments by the legislature regarding the proposed exception.

(3) The ~~((office of financial management))~~ agency shall ~~((forward))~~ provide copies of these project lists and revised lists to the office of financial management, the house of representatives capital budget committee, and the senate ways and means committee. No expenditure may be incurred or obligation entered into for minor works appropriations until the office of financial management has approved the allotment of the funds to be expended. The office of financial management shall encourage state agencies to incorporate accessibility planning and improvements into the normal and customary capital program.

(4) It is generally not intended to make future appropriations for capital expenditures or for maintenance and operating expenses for an acquisition project or a significant expansion project that is initiated through the minor works process and therefore does not receive a policy and fiscal analysis by the legislature. Minor works projects are intended to be one-time expenditures that do not require future state resources to complete.

NEW SECTION. Sec. 221. A new section is added to 2005 c 488 (uncodified) to read as follows:

Executive Order No. 05-05, archaeological and cultural resources, was issued effective November 10, 2005. Agencies and higher education institutions shall comply with the requirements set forth in this executive order.

**Sec. 222.** 2005 c 488 s 909 (uncodified) is amended to read as follows:

**ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS.** The following agencies may enter into financial contracts, paid from any funds of an agency, appropriated or nonappropriated, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements or financial contracts using certificates of participation. Expenditures made by an agency for one of the indicated purposes before the issue date of the authorized financial contract and any certificates of participation therein are intended to be reimbursed from proceeds of the financial contract and any certificates of participation therein to the extent provided in the agency's financing plan approved by the state finance committee.

State agencies may enter into agreements with the department of general administration and the state treasurer's office to develop requests to the legislature for acquisition of properties and facilities through financial contracts. The agreements may include charges for services rendered.

Those noninstructional facilities of higher education institutions authorized in this section to enter into financial contracts are not eligible for state funded maintenance and operations. Instructional space that is available for regularly scheduled classes for academic transfer, basic skills, and workforce training programs may be eligible for state funded maintenance and operations.

(1) Department of general administration:

(a) Enter into a financing contract for up to \$12,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct the fifth and final phase of the roof membrane replacement at the east plaza parking structure as well as safety improvements to the parking garage below the plaza.

(b) Enter into a financing contract for up to \$6,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the fourth phase of the office building-2 rehabilitation that will renew failing building systems, correct code deficiencies, and improve access.

(c) Enter into a financing contract for up to \$13,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the rehabilitation of the Cherberg building.

(2) Liquor control board: Enter into a financing contract for up to \$17,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an extension to the liquor control board's distribution center to meet liquor sales growth through 2018.

(3) Department of corrections:

(a) Enter into a financing contract for up to \$400,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a waste transfer station and purchase a garbage truck at the McNeil Island corrections center.

(b) Enter into a financing contract for up to \$4,588,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a transportation services warehouse and offices for correctional industries.

(c) Enter into a financing contract for up to \$4,536,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct additions to the food factory and warehouses at the Airway Heights corrections center for correctional industries.

(4) Parks and recreation commission: Enter into a financing contract in an amount not to exceed \$4,800,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to develop Cama Beach state park.

(5) Community and technical colleges:

(a) ~~((Enter into a financing contract on behalf of Bellevue Community College for up to \$20,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase the North Center building.~~

~~(b))~~ Enter into a financing contract on behalf of Clark College for up to \$9,100,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a ~~((parking structure))~~ building for a training center.

~~((c))~~ (b) Enter into a financing contract on behalf of Clover Park Technical College for up to \$14,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a student center.

~~((d))~~ (c) Enter into a financing contract on behalf of Columbia Basin College for up to \$1,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to renovate the Hawk Union building.

(d) Enter into a financing contract on behalf of Edmonds Community College for up to \$8,500,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a bookstore and student center.

(e) Enter into a financing contract on behalf of Edmonds Community College for up to \$4,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a black box theater as a part of the Instructional Lab building.

(f) Enter into a financing contract on behalf of Green River Community College for up to \$7,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase Kent Station higher education center.

(g) Enter into a financing contract on behalf of Olympic College for up to \$3,600,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an addition to the student center bookstore.

(h) Enter into a financing contract on behalf of Shoreline Community College for up to \$15,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a student union building.

(i) Enter into a financing contract on behalf of Skagit Valley Community College for up to \$3,200,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to renovate existing space into a new student center.

(j) Enter into a financing contract on behalf of Walla Walla Community College for up to \$2,175,100 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to purchase land, make site improvements, and construct a building for ~~((the enology program))~~ professional-technical instruction.

(k) Enter into a financing contract on behalf of Walla Walla Community College for up to \$640,000 plus financing expenses and required reserves

pursuant to chapter 39.94 RCW to construct an addition to the health sciences building at the Clarkston center.

(l) Enter into a financing contract on behalf of Seattle Central Community College for up to \$3,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a math and science building.

(m) Enter into a financing contract on behalf of Pierce College/Puyallup for up to \$8,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a student gym and fitness center.

(n) Enter into a financing contract on behalf of Pierce College/Ft. Steilacoom for up to \$5,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct an addition to the college health and wellness center.

(o) Enter into a financing contract on behalf of Columbia Basin College for up to \$3,000,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct the Richland health sciences center.

(p) The projects in ~~((a-))~~ (f), ~~((k-))~~ (j), ~~(l)~~, (m), and (n) of this subsection are reauthorizations of projects originally authorized in the 2003-2005 biennium. If the college enters into a financing contract before the effective date of this section, then the appropriate reauthorization contained in this section is null and void.

(6) Washington State University: Enter into a financing contract for up to \$11,650,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW to construct a bioproducts facility in the Tri-Cities.

(7) Western Washington University: Enter into a financing contract for up to \$2,590,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW for the Lincoln Creek transportation center.

**Sec. 223.** RCW 43.—.— (section 6, chapter —, Laws of 2006, (E3SHB No. 2939)) is amended to read as follows:

The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for assistance for projects consistent with this chapter or otherwise authorized by the legislature. Administrative costs of the department may not exceed three percent of the total funds available for this program.

**NEW SECTION. Sec. 224.** A new section is added to 2005 c 488 (uncodified) to read as follows:

The legislature finds that financing costs are only one important dimension to consider when analyzing and comparing the use of conventional bonds with other capital project financing mechanisms in the development of major public facilities. Other factors to consider include total project and life-cycle costs, long-term costs of capital, scheduling, generally accepted accounting principles, transfer of risk, project management, project complexity, public works contracting procedures, and applicability of private sector strategies or practices in the development and ongoing maintenance of public facilities.

The office of financial management shall provide a report based on available information to the appropriate fiscal committees of the legislature by September 1, 2007, including:

Best practices for managing capital project costs including long-term forecasting information for facility preservation, major facility or system replacement, and new capacity to result in more effective investment decisions for major public facilities and infrastructure;

(2) Best practices in the state's capital budgeting process and public works contracting procedures;

(3) Appropriate uses of alternative capital project financing; and

(4) Management of risk and reduction of potential claims and litigation associated with state construction projects, including the enumeration of best practices for the management of project risk and conflicts, in order to minimize future expenses related to construction claims.

The office of financial management shall collaborate with staff of the appropriate fiscal committees of the legislature while collecting this information.

**NEW SECTION. Sec. 225.** A new section is added to 2005 c 488 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF VETERANS' AFFAIRS.** The department shall develop a business plan for a state operated veterans' cemetery located in eastern Washington. The department shall submit the business plan to the legislature and the office of financial management by September 1, 2006. The business plan must include, but not be limited to the following:

(1) A 10-year financial plan including:

(a) Capital investment costs including a schedule for design and construction;

(b) Biennial operating costs; and

(c) Forecasted revenues including license plate sales, veterans administration plot allowances, endowments, and grants.

(2) An assessment of cemetery needs for veterans and veterans' families in eastern Washington.

(3) An evaluation of potential sites for the cemetery that would be within a reasonable distance of the majority of veterans' families. The department shall work closely with the department of natural resources to determine potential sites.

(4) An analysis of lands that are currently owned by the department that could be sold in exchange for land for a cemetery in eastern Washington.

**NEW SECTION. Sec. 226.** A new section is added to 2005 c 488 (uncodified) to read as follows:

Eastern Washington University is authorized to sell its Spokane center. Proceeds from the sale must be deposited into the higher education construction account. Proceeds may be used to acquire or design a facility on or adjacent to the Riverpoint higher education campus for the university's Spokane-based program offerings. Eastern Washington University must report to the office of financial management and the appropriate fiscal committees of the legislature upon sale of the center as well as expenditure of the proceeds.

**Sec. 227.** RCW 43.99N.060 and 2000 c 137 s 1 are each amended to read as follows:

(1) The stadium and exhibition center account is created in the custody of the state treasurer. All receipts from the taxes imposed under RCW 82.14.0494 and distributions under RCW 67.70.240(5) shall be deposited into the account. Only the director of the office of financial management or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. An appropriation is not required for expenditures from this account.

(2) Until bonds are issued under RCW 43.99N.020, up to five million dollars per year beginning January 1, 1999, shall be used for the purposes of subsection (3)(b) of this section, all remaining moneys in the account shall be transferred to the public stadium authority, created under RCW 36.102.020, to be used for public stadium authority operations and development of the stadium and exhibition center.

(3) After bonds are issued under RCW 43.99N.020, all moneys in the stadium and exhibition center account shall be used exclusively for the following purposes in the following priority:

(a) On or before June 30th of each year, the office of financial management shall accumulate in the stadium and exhibition center account an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued under RCW 43.99N.020;

(b) An additional reserve amount not in excess of the expected average annual principal and interest requirements of bonds issued under RCW 43.99N.020 shall be accumulated and maintained in the account, subject to withdrawal by the state treasurer at any time if necessary to meet the requirements of (a) of this subsection, and, following any withdrawal, reaccumulated from the first tax revenues and other amounts deposited in the account after meeting the requirements of (a) of this subsection; and

(c) The balance, if any, shall be transferred to the youth athletic facility account under subsection (4) of this section.

Any revenues derived from the taxes authorized by RCW 36.38.010(5) and 36.38.040 or other amounts that if used as provided under (a) and (b) of this subsection would cause the loss of any tax exemption under federal law for interest on bonds issued under RCW 43.99N.020 shall be deposited in and used exclusively for the purposes of the youth athletic facility account and shall not be used, directly or indirectly, as a source of payment of principal of or interest on bonds issued under RCW 43.99N.020, or to replace or reimburse other funds used for that purpose.

(4) Any moneys in the stadium and exhibition center account not required or permitted to be used for the purposes described in subsection (3)(a) and (b) of this section shall be deposited in the youth athletic facility account hereby created in the state treasury. Expenditures from the account may be used only for purposes of grants or loans to cities, counties, and qualified nonprofit organizations for community outdoor athletic facilities. For the 2005-2007 biennium, moneys in the account may also be used for a recreation level of service study for local and regional active recreation facilities. Only the director of the interagency committee for outdoor recreation or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not



required for expenditures. The athletic facility grants or loans may be used for acquiring, developing, equipping, maintaining, and improving community outdoor athletic facilities. Funds shall be divided equally between the development of new community outdoor athletic facilities, the improvement of existing community outdoor athletic facilities, and the maintenance of existing community outdoor athletic facilities. Cities, counties, and qualified nonprofit organizations must submit proposals for grants or loans from the account. To the extent that funds are available, cities, counties, and qualified nonprofit organizations must meet eligibility criteria as established by the director of the interagency committee for outdoor recreation. The grants and loans shall be awarded on a competitive application process and the amount of the grant or loan shall be in proportion to the population of the city or county for where the community outdoor athletic facility is located. Grants or loans awarded in any one year need not be distributed in that year. The director of the interagency committee for outdoor recreation may expend up to one and one-half percent of the moneys deposited in the account created in this subsection for administrative purposes.

**NEW SECTION. Sec. 228.** A new section is added to 2005 c 488 (uncodified) to read as follows:

The interagency committee for outdoor recreation shall develop recommendations for a statewide approach to a recreation level of service for local and regional active recreation facilities, including indicators with which to measure progress in achieving level of service objectives. The recommendations must be coordinated with those of the priorities of government effort. The interagency committee for outdoor recreation shall also recommend standardized definitions for types of parks and recreational facilities, and a process for periodically measuring performance indicators and reporting the results. The interagency committee for outdoor recreation may enter into a contract with an entity with expertise in parks facility planning, level of service standards, and geographic information systems. The interagency committee for outdoor recreation shall submit a report to the appropriate committees of the legislature by January 1, 2007. The report must include the following: (1) Level of service standards including individual participation measures; (2) service area analysis using geographic information system tools and techniques; and (3) recommendations to incorporate level of service reporting into grant-in-aid programs.

**Sec. 229.** RCW 44.28.801 and 2005 c 425 s 5 are each amended to read as follows:

(1) The joint legislative audit and review committee, in consultation with staff from the appropriate fiscal committees of the legislature and the office of financial management, shall conduct an inventory of all state public infrastructure programs and funds. The inventory shall identify: The public infrastructure state programs and funds and the purposes each serve; how the program or fund is implemented; the types of public infrastructure projects supported by the program or fund; the dollar amount of the projects funded by each program or fund; the balance of a fund, if applicable; and the geographic distribution of projects supported by a program or fund. Where applicable, the inventory shall identify overlaps or gaps in types of public infrastructure projects

supported through state programs or funds. Where appropriate, the inventory shall evaluate the return on investment for economic development infrastructure programs. The inventory shall be delivered to the appropriate committees of the legislature by December ~~((17))~~ 2006. It is the intent of the legislature to use the inventory information to identify or develop a comprehensive funding structure to support the integration, consolidation, and standardization of processes, procedures, and infrastructure programs.

(2) By September ~~((17))~~ 2010, the joint legislative audit and review committee shall submit a report on the outcomes of the job development fund program to the appropriate committees of the legislature. The report shall apply the performance and evaluation criteria developed by the community economic revitalization board and the committee and shall include a project by project review detailing how the funds were used and whether the performance measures were met. The report shall also include impacts to the availability of low-interest and interest-free loans to local governments under RCW 43.155.055, 43.155.060, 43.155.065, and 43.155.068, resulting from appropriations to the job development fund. Information in the report shall include, but not be limited to:

(a) The total funds appropriated from the public works assistance account to the job development account;

(b) The ratio of loan requests submitted to the public works board as compared to actual money available for loans in the public works assistance account since July 24, 2005;

(c) The total amount that would have been available for loans from the public works assistance account had this act not taken effect;

(d) Identification of specific loan requests that would have qualified for funding under chapter 43.155 RCW had money been available in the public works assistance account;

(e) Assessment of increased costs for otherwise qualifying projects where local governments were compelled to seek alternate funding sources.

***\*NEW SECTION. Sec. 230. A new section is added to 2005 c 488 (uncodified) to read as follows:***

***(1) Space used by the department of services for the blind for food services and vending machines shall be treated as common space for the purposes of rent. The rental charges will be apportioned to other tenant occupants of each individual building that has blind vendors. The department of general administration shall provide preventative maintenance on all permanently attached fixtures in these facilities.***

***(2) Private office buildings located in the capital area that lease space to at least one hundred state employees must contract with the department of services for the blind to provide vending facilities and/or vending machines in those facilities. If the department indicates to the building owner that a vendor is not available, or that the building does not meet the needs of the blind vendors' program, the building owner may then seek other vendors for the facility. However, all vending machines in such facilities shall be provided by the department.***

***(3) For purposes of this section, "capital area" includes the area within the boundaries of Olympia, Tumwater, and Lacey, Washington.***

*(4) Within existing funds, the department of services for the blind, in conjunction with the office of financial management and the department of community, trade, and economic development shall study the establishment of a process enabling blind vendors to enter into franchise agreement with commercial food service providers. The department of services for the blind shall report its findings and recommendations to the appropriate legislative committees by October 1, 2006.*

\*Sec. 230 was vetoed. See message at end of chapter.

**Sec. 231.** RCW 27.34.330 and 2005 c 333 s 16 and 2005 c 160 s 3 are each reenacted and amended to read as follows:

The Washington state historical society shall establish a competitive process to solicit proposals for and prioritize heritage capital projects for potential funding in the state capital budget. The society shall adopt rules governing project eligibility and evaluation criteria. Application for funding of specific projects may be made to the society by local governments, public development authorities, nonprofit corporations, tribal governments, and other entities, as determined by the society. The society, with the advice of leaders in the heritage field, including but not limited to representatives from the office of the secretary of state, the eastern Washington state historical society, and the department, shall establish and submit a prioritized list of heritage capital projects to the governor and the legislature in the society's biennial capital budget request. The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed ~~((four))~~ ten million dollars. ~~((The department may provide an additional prioritized alternate project list which shall not exceed two million dollars.))~~ The prioritized list shall be developed through open and public meetings and the amount of state funding shall not exceed thirty-three percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects. In contracts for grants authorized under this section, the society shall include provisions requiring that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

**Sec. 232.** RCW 27.34.330 and 2005 c 160 s 3 are each amended to read as follows:

The Washington state historical society shall establish a competitive process to solicit proposals for and prioritize heritage capital projects for potential funding in the state capital budget. The society shall adopt rules governing project eligibility and evaluation criteria. Application for funding of specific projects may be made to the society by local governments, public development authorities, nonprofit corporations, tribal governments, and other entities, as determined by the society. The society, with the advice of leaders in the heritage

field, including but not limited to representatives from the office of the secretary of state, the eastern Washington state historical society, and the ~~((state office))~~ department of archaeology and historic preservation, shall establish and submit a prioritized list of heritage capital projects to the governor and the legislature in the society's biennial capital budget request. The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed ~~((four))~~ ten million dollars. ~~((The department may provide an additional prioritized alternate project list which shall not exceed two million dollars.))~~ The prioritized list shall be developed through open and public meetings and the amount of state funding shall not exceed thirty-three percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects. In contracts for grants authorized under this section, the society shall include provisions requiring that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

**Sec. 233.** RCW 43.63A.125 and 2005 c 160 s 1 are each amended to read as follows:

(1) The department shall establish a competitive process to solicit proposals for and prioritize projects that assist nonprofit organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential social services.

(2) The department shall establish a competitive process to prioritize applications for the assistance as follows:

(a) The department shall conduct a statewide solicitation of project applications from local governments, nonprofit organizations, and other entities, as determined by the department. The department shall evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. At a minimum, applicants must demonstrate that the requested assistance will increase the efficiency or quality of the social services it provides to citizens. The evaluation and ranking process shall also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section shall not exceed twenty-five percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

(b) The department shall submit a prioritized list of recommended projects to the governor and the legislature in the department's biennial capital budget request beginning with the 2001-2003 biennium and thereafter. For the 1999-2001 biennium, the department shall conduct a solicitation and ranking process, as described in (a) of this subsection, for projects to be funded by appropriations

provided for this program in the 1999-2001 capital budget. The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed ~~((four))~~ ten million dollars. ~~((The department may provide an additional prioritized alternate project list which shall not exceed two million dollars.))~~ Except for the 1999-2001 biennium, the department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(c) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

**Sec. 234.** RCW 43.63A.135 and 2005 c 160 s 4 are each amended to read as follows:

(1) The department of community, trade, and economic development must establish a competitive process to solicit proposals for and prioritize projects whose primary objective is to assist nonprofit youth organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential services, excluding outdoor athletic fields.

(2) The department of community, trade, and economic development must establish a competitive process to prioritize applications for the assistance as follows:

(a) The department of community, trade, and economic development must conduct a statewide solicitation of project applications from local governments, nonprofit organizations, and other entities, as determined by the department of community, trade, and economic development. The department of community, trade, and economic development must evaluate and rank applications in consultation with a citizen advisory committee using objective criteria. Projects must have a major recreational component, and must have either an educational or social service component. At a minimum, applicants must demonstrate that the requested assistance will increase the efficiency or quality of the services it provides to youth. The evaluation and ranking process must also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section may not exceed twenty-five percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

(b) The department of community, trade, and economic development must submit a prioritized list of recommended projects to the governor and the legislature in the department of community, trade, and economic development's biennial capital budget request beginning with the 2005-2007 biennium and thereafter. The list must include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a

biennial project list must not exceed ~~((two))~~ eight million dollars. ~~((The department of community, trade, and economic development may provide an additional prioritized alternate project list that must not exceed one million dollars.))~~ The department of community, trade, and economic development may not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(c) In contracts for grants authorized under this section the department of community, trade, and economic development must include provisions that require that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee must repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

**Sec. 235.** RCW 43.63A.750 and 2005 c 160 s 2 are each amended to read as follows:

(1) A competitive grant program to assist nonprofit organizations in acquiring, constructing, or rehabilitating performing arts, art museums, and cultural facilities is created.

(2)(a) The department shall submit a list of recommended performing arts, art museum projects, and cultural organization projects eligible for funding to the governor and the legislature in the department's biennial capital budget request beginning with the 2001-2003 biennium and thereafter. The list, in priority order, shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed ~~((four))~~ twelve million dollars. ~~((The department may provide an additional prioritized alternate project list which shall not exceed two million dollars.))~~

(b) The department shall establish a competitive process to prioritize applications for state assistance as follows:

(i) The department shall conduct a statewide solicitation of project applications from nonprofit organizations, local governments, and other entities, as determined by the department. The department shall evaluate and rank applications in consultation with a citizen advisory committee, including a representative from the state arts commission, using objective criteria. The evaluation and ranking process shall also consider local community support for projects and an examination of existing assets that applicants may apply to projects.

(ii) The department may establish the amount of state grant assistance for individual project applications but the amount shall not exceed twenty percent of the estimated total capital cost or actual cost of a project, whichever is less. The remaining portions of the project capital cost shall be a match from nonstate sources. The nonstate match may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. The department is authorized to set matching requirements for individual projects. State assistance may be used to fund separate definable phases of a project if the

project demonstrates adequate progress and has secured the necessary match funding.

(iii) The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects. In contracts for grants authorized under this section, the department shall include provisions requiring that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

**Sec. 236.** RCW 43.185.050 and 2005 c 219 s 1 and 2005 c 518 s 1801 are each reenacted and amended to read as follows:

(1) The department shall use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of these moneys used in any given funding cycle shall be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing; ~~(and)~~

(k) Projects making housing more accessible to families with members who have disabilities; and

(1) During the 2005-2007 fiscal biennium, a manufactured/mobile home landlord-tenant ombudsman conflict resolution and park registration program.

(3) During the 2005-2007 fiscal biennium, revenues generated under RCW 36.22.178 may be used for the development of affordable housing projects and other activities funded in section 108 of this act.

(4) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department.

~~((4))~~ (5) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

~~((5))~~ (6) Administrative costs of the department shall not exceed five percent of the annual funds available for the housing assistance program(, except in fiscal year 2005 when administrative costs shall not exceed five percent).

**Sec. 237.** 2005 c 488 s 927 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—TRANSFERS**

Local Toxics Control Account: For transfer to the state toxics control account . . . . . \$13,900,000

State Drought Preparedness Account: For transfer to the charitable, education, penal and reformatory institutions account . . . . . \$870,000

Washington Housing Trust Account: For transfer to the homeless families services account . . . . . \$4,000,000

NEW SECTION. Sec. 238. (1) Section 229 of this act expires June 30, 2011.

(2) Section 231 of this act expires June 30, 2007.

NEW SECTION. Sec. 239. Section 232 of this act takes effect June 30, 2007.

NEW SECTION. Sec. 240. Part headings in this act are not any part of the law.

NEW SECTION. Sec. 241. 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. 242. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Passed by the Senate March 8, 2006.

Passed by the House March 8, 2006.

Approved by the Governor March 31, 2006, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 31, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 105(6); 106(4), line item 13, page 10; 116; 155(1), (2), (3); 180; 195; 199; 211; and 230 of Engrossed Substitute Senate Bill No. 6384 entitled:

"AN ACT Relating to the capital budget."

My reasons for vetoing these sections are as follows:

**Section 105(6), pages 5-6, Department of Community, Trade, and Economic Development, Housing Liability Revolving Fund**

This proviso would require the Department of Community, Trade and Economic Development (CTED) to contract with the Washington State Housing Finance Commission to establish a liability revolving fund for condominium and multi-unit residential buildings. This provision was previously included in legislation that failed to pass this session. The language defines eligibility for a new, on-going service. It is inappropriate to establish this type of program in an appropriations bill.

Although I have vetoed Section 105(6), I am directing CTED to work with the Housing Finance Commission to accomplish these program goals to the maximum extent allowable under law.

**Section 106(4), line item 13 on page 10, Department of Community, Trade, and Economic Development, Tritrail Feasibility Study**

This project would provide general obligation bond funds to study a three-city walking and biking trail, starting in Tukwila and eventually linking to Mount Rainier National Park. It is not prudent to use long-term bond financing to pay for a feasibility study. I have, therefore, vetoed the appropriation related to this project.

**Section 116, pages 19-20, Department of General Administration, Pritchard Building Pre-design**

This Americans with Disabilities Act of 1990 (ADA) access project was funded in the 2005-07 capital budget. Proviso language was added in this bill to require the Department of General Administration to include design and construction of the ADA pathway project to the Pritchard Building as part of the Pritchard Building pre-design. The pre-design is a separate project and combining these projects could add another year to the ADA path project, as well as increase the total cost. The Capitol Campus Design Advisory Committee has approved the ADA access plan and the ADA path project is ready to proceed to design. I have vetoed Section 116 to allow for timely completion of this project.

**Section 155(1), (2), and (3), pages 45 -46, Interagency Committee for Outdoor Recreation, Hood Canal Grant Program**

Sections 155 (1), (2) and (3) establish a process for the Interagency Committee for Outdoor Recreation (IAC) to administer a grant program addressing low-dissolved oxygen concentrations in Hood Canal. It is a reasonable approach to allow the Governor to remove projects from a list developed by the Puget Sound Action Team, and for the IAC not to commit funds until the Legislature has appropriated funds for a specific list of projects. However, this new process will prevent any projects from being started until the spring of 2007.

In order for these critical projects to move forward as quickly as possible, I have vetoed Sections 155 (1), (2) and (3). In addition, I am directing the IAC to proceed with a process to select projects based on the prioritized recommendations of the Puget Sound Action Team and the Hood Canal Coordinating Council. I also am instructing the IAC to review the list of projects with the Governor's Office and appropriate legislators before signing contracts.

**Section 180, page 58, Department of Fish and Wildlife, Olympia Facilities**

Section 180 directs the Department of Fish and Wildlife to vacate its downtown Olympia facilities by June 2007 and for the Department of General Administration to dispose of the properties. RCW 77.12.210 gives the director of the Department of Fish and Wildlife the authority to maintain and manage real or personal property owned, leased, or held by the department. The Fish and Wildlife Commission may authorize the director to dispose of real or personal property under the control of the department. This section directing the Department of General Administration to dispose of this property conflicts with this existing statute.

Although I have vetoed Section 180, I am directing the Department of General Administration to work with the Department of Fish and Wildlife to develop a plan addressing the consolidation of services, relocation of users, and long-term use of the properties, and to report to the Legislature and Office of Financial Management by December 1, 2006.

**Section 195, pages 68-69, State Board of Education, IslandWood**

This section adds funding for capital projects at IslandWood Education Center. Article IX, Section 3 of the Washington State Constitution states that the Common School Construction Account shall be used exclusively for financing the construction of facilities for the common schools. RCW 28A.150.020 defines common schools as schools maintained at public expense in each school district and carrying on a program from kindergarten through the twelfth grade or any part thereof including vocational educational courses otherwise permitted by law. IslandWood is a non-profit organization that serves students from fifty schools and 50,000 households in Puget Sound. I have vetoed Section 195 because funding a non-profit entity is not consistent with the intended use of the Common School Construction Account.

**Section 199, pages 71-72, State Board of Education, Acoustic Technology**

This section would provide funding for demonstration projects to test the use of sound amplification technology in the classroom. Grant recipients must contribute a 50 percent match for these funds and provide a measure of the effectiveness of this technology. There is no evidence that suggests that the use of this technology creates a substantial benefit to students. In addition, the program is likely to have substantial future costs. For these reasons, I have vetoed Section 199.

**Section 211, pages 76-77, State Arts Commission, Capitol Sundial Repair**

This section provides funding to support a \$5,000 competitive grant for design and repair of the State Capitol Sundial. This small amount is not appropriately financed through long-term general obligation bonds. I have vetoed Section 211 and believe that other funding sources can be found for this project.

**Section 230, pages 92-93, Vendor Services**

Section 230 eliminates the rent currently paid by the Department of Services for the Blind (DSB) for food service providers and vending machines. It also requires that the Department of General Administration (GA) pay preventative maintenance on food service equipment used by these vendors; that private buildings with at least 100 state employees contract with the DSB for vending facilities and/or vending machines in the cities of Olympia, Lacey and Tumwater; and that GA conduct a study establishing a process for blind vendors to enter into franchise agreements with commercial food providers.

Although I am concerned about the issues addressed by this section, I believe it is inappropriate to simply transfer these vendor costs to state agencies that pay rent in state buildings. I have vetoed Section 230 in order to allow more time to assess the situation statewide, and explore alternatives.

With the exception of Sections 105(6); 106(4), line item 13, page 10; 116; 155(1), (2), (3); 180; 195; 199; 211; and 230 as specified above, Engrossed Substitute Senate Bill No. 6384 is approved."

**CHAPTER 372**

[Engrossed Substitute Senate Bill 6386]

**FISCAL MATTERS**

AN ACT Relating to fiscal matters; amending RCW 2.36.150, 28A.500.030, 73.04.135, 79A.05.070, and 90.56.120; amending 2005 c 518 ss 101, 102, 103, 104, 106, 107, 105, 109, 112, 110, 111, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 401, 402, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 513, 514, 515, 516, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 701, 702, 703, 704, 705, 713, 716, 720, 724, 725, 801, 802, 803, 804, 805, 806, and 948 (uncodified); adding new sections to 2005 c 518 (uncodified); making appropriations; and declaring an emergency.

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

**PART I  
GENERAL GOVERNMENT**

**Sec. 101.** 2005 c 518 s 101 (uncodified) is amended to read as follows:

**FOR THE HOUSE OF REPRESENTATIVES**

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$30,411,000</del> ))
	<u>\$30,244,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$30,900,000</del> ))
	<u>\$30,951,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$167,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$61,311,000</del> ))
	<u>\$61,362,000</u>

The appropriations in this section are subject to the following conditions and limitations: ((~~2~~) ~~\$25,000~~) \$8,000 of the general fund—state appropriation for fiscal year 2006 ((~~s~~)) and \$17,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the children's and family services task force established in Engrossed Substitute Senate Bill No. 5872 (family/children's department). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

**Sec. 102.** 2005 c 518 s 102 (uncodified) is amended to read as follows:

**FOR THE SENATE**

Ch. 372

WASHINGTON LAWS, 2006

General Fund—State Appropriation (FY 2006) . . . . .	(\$23,253,000))
	<u>\$23,236,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$25,368,000))
	<u>\$25,412,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$125,000</u>
TOTAL APPROPRIATION . . . . .	(\$48,621,000))
	<u>\$48,773,000</u>

The appropriations in this section are subject to the following conditions and limitations: ((~~\$25,000~~) \$8,000 of the general fund—state appropriation for fiscal year 2006 ((~~is~~) and \$17,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the children's and family services task force established in Engrossed Substitute Senate Bill No. 5872 (family/children's department). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

**Sec. 103.** 2005 c 518 s 103 (uncodified) is amended to read as follows:

**FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

General Fund—State Appropriation (FY 2006) . . . . .	(\$2,531,000))
	<u>\$2,294,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$1,953,000))
	<u>\$2,921,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$9,000</u>
TOTAL APPROPRIATION . . . . .	(\$4,484,000))
	<u>\$5,224,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Notwithstanding the provisions in this section, the committee may adjust the due dates for projects included on the committee's 2005-07 work plan as necessary to efficiently manage workload.

(2)(a) \$100,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for a study of the basic health plan. Part 1 of the study shall examine the extent to which basic health plan policies and procedures promote or discourage the provision of appropriate, high-quality, cost-effective care to basic health plan enrollees. Issues to be addressed include, but are not limited to, whether (i) enrollees are encouraged to engage in wellness activities and receive preventative services; (ii) evidence-based treatment strategies are identified and promoted; (iii) enrollees are encouraged to use high-quality providers; (iv) enrollees with chronic or other high-cost conditions are identified and provided with appropriate interventions; and (v) innovative health care service delivery methods are encouraged. Part 1 of the study report shall be completed by December 2005.

(b) Part 2 of the study shall examine the characteristics of individuals enrolled in the basic health plan, and their use of health care services, including, but not limited to, (i) enrollee longevity on the basic health plan; (ii) circumstances that led to basic health plan enrollment; (iii) how enrollees obtained health care prior to basic health plan enrollment; (iv) health care coverage of other household members; (v) service utilization patterns; and (vi)

employment status and by whom basic health plan enrollees are employed. Part 2 of the study must be completed by July, 2006.

(3) (~~(\$188,000)~~) \$37,000 of the general fund—state appropriation for fiscal year 2006 (~~(is)~~) and \$151,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the public infrastructure study and the cost of evaluating the effectiveness of the job development fund grant program required by House Bill No. 1903 (creating a job development fund). If House Bill No. 1903 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(4) \$100,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for an evaluation of the budget process used for information technology projects. The evaluation will include: Itemizing total costs for current information technology funding across state agencies; analyzing current processes by which information funding is requested and evaluated; analyzing processes used in the private sector and other states; and assessing the applicability of other practices for improving the state's funding process. A report is due in January 2006.

(5) \$125,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for a study of the current state pupil transportation funding formula. The study will evaluate the extent to which the formula captures the costs of providing pupil transportation for basic education programs. Based on the results of this evaluation, the study shall develop alternative formulas for allocating state funding to school districts for the transportation of students for basic education programs. The alternative formulas shall take into account the legislative definition of basic education programs, promote the efficient use of state and local resources, and allow local district control over the management of pupil transportation systems. In addition, the study shall include a review of the funding mechanisms used by other states and identify best practices.

(6) Within amounts provided in this section, the committee shall conduct a review of the special education excess cost accounting methodology and expenditure reporting requirements. The committee shall work with the state auditor's office and develop a mutually acceptable work plan in conducting this review. This review may include, but is not limited to: (a) An analysis of the current special education excess cost accounting methodology and related special education expenditure reporting requirements; (b) an examination of whether opportunities exist for modifying the current excess cost accounting methodology and expenditure reporting requirements; (c) an assessment of the potential impact on school districts if the current excess cost accounting methodology and expenditure reporting requirements are modified; and (d) any findings and recommendations from the state auditor's office examination of whether school districts are appropriately and consistently applying the current excess cost methodology. The committee shall provide a report to the appropriate policy and fiscal committees of the legislature in January 2006.

(7) \$100,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the consultant costs related to the study identified in section 505 of Engrossed Second Substitute Senate Bill No. 5763 (mental disorders treatment). If this section is not enacted by June 30, 2005, these amounts shall lapse.

(8) \$86,000 of the general fund—state appropriation for fiscal year ((2006)) 2007 is provided solely to implement the provisions of Engrossed Substitute House Bill No. 1064 (government performance). If Engrossed Substitute House Bill No. 1064 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(9) \$190,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for purposes of legislative hearings and reporting requirements under Initiative Measure No. 900 (chapter 1, Laws of 2006; performance audits).

(10) \$375,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the review of tax preferences and to staff the citizen commission for performance measurement of tax preferences required in Engrossed House Bill No. 1069 (audits of tax preferences). If Engrossed House Bill No. 1069 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(11) \$14,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the cost of conducting a review of the staffing levels for department of health investigators and attorneys involved in the health professions disciplinary process required by Substitute House Bill No. 2974 (health profession discipline). If Substitute House Bill No. 2974 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(12) \$50,000 of the general fund—state appropriation for fiscal year 2007 is for a review of the state's policy on state funding and tax preferences for business incubators. The review shall examine types, costs, and performance outcomes of business incubators, inventory the business incubators in this state, and describe their purposes, state financial and tax support, number of businesses and jobs created, survival rate, criteria for state support, and the policies for reducing or terminating state support. The committee shall consult with the department of revenue and other state, federal, and local agencies involved with business incubators. The committee shall make recommendations on whether the proposals create a public or private benefit and the impact of state-supported business incubators on existing businesses in the state. The review shall be completed and submitted to the appropriate committees of the legislature by June 30, 2007.

(13) \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to conduct a review of how the department of social and health services division of developmental disabilities prioritizes and allocates services.

Sec. 104. 2005 c 518 s 104 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,737,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$1,921,000)
	\$1,924,000
Pension Funding Stabilization Account Appropriation . . . . .	\$10,000
TOTAL APPROPRIATION . . . . .	(\$3,658,000)
	\$3,671,000

Sec. 105. 2005 c 518 s 106 (uncodified) is amended to read as follows:

**FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE**

General Fund—State Appropriation (FY 2006) . . . . .	\$7,288,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$7,248,000)</del>
	<u>\$7,252,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$25,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$14,536,000)</del>
	<u>\$14,565,000</u>

**Sec. 106.** 2005 c 518 s 107 (uncodified) is amended to read as follows:

**FOR THE STATUTE LAW COMMITTEE**

General Fund—State Appropriation (FY 2006) . . . . .	\$4,112,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$4,398,000)</del>
	<u>\$4,401,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$20,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$8,510,000)</del>
	<u>\$8,533,000</u>

**Sec. 107.** 2005 c 518 s 105 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE STATE ACTUARY**

Department of Retirement Systems Expense Account—	
State Appropriation . . . . .	<del>(\$3,013,000)</del>
	<u>\$3,022,000</u>

The appropriation in this section is subject to the following conditions and limitations: By December 1, 2005, the state actuary shall conduct an actuarial analysis that quantifies, to the greatest extent permissible from available experience data, the fiscal impact of the retire-rehire program for plan 1 of the public employees' retirement system and the teachers' retirement system enacted by chapter 10, Laws of 2001 and chapter 412, Laws of 2003. In addition to the actuarial analysis, the state actuary shall present a range of legislative alternatives to the plan 1 retire-rehire program, including an actuarial analysis of the fiscal impact of proposals to increase the maximum retirement allowance beyond sixty percent of average final compensation. The analysis shall be submitted to the select committee on pension policy, the senate committee on ways and means, and the house of representatives committee on appropriations.

**Sec. 108.** 2005 c 518 s 109 (uncodified) is amended to read as follows:

**FOR THE SUPREME COURT**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$6,085,000)</del>
	<u>\$6,095,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$6,346,000)</del>
	<u>\$6,397,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$37,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$12,431,000)</del>
	<u>\$12,529,000</u>

**Sec. 109.** 2005 c 518 s 112 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON JUDICIAL CONDUCT**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,055,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$1,107,000)</del>
	<u>\$1,109,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$5,000</u>

TOTAL APPROPRIATION .....	(\$2,162,000)
	<u>\$2,169,000</u>

Sec. 110. 2005 c 518 s 110 (uncodified) is amended to read as follows:

**FOR THE LAW LIBRARY**

General Fund—State Appropriation (FY 2006) .....	(\$2,011,000)
	<u>\$2,013,000</u>
General Fund—State Appropriation (FY 2007) .....	(\$2,020,000)
	<u>\$2,024,000</u>
<u>Pension Funding Stabilization Account Appropriation .....</u>	<u>\$5,000</u>
TOTAL APPROPRIATION .....	(\$4,031,000)
	<u>\$4,042,000</u>

Sec. 111. 2005 c 518 s 111 (uncodified) is amended to read as follows:

**FOR THE COURT OF APPEALS**

General Fund—State Appropriation (FY 2006) .....	(\$13,866,000)
	<u>\$13,916,000</u>
General Fund—State Appropriation (FY 2007) .....	(\$14,358,000)
	<u>\$14,393,000</u>
<u>Pension Funding Stabilization Account Appropriation .....</u>	<u>\$80,000</u>
TOTAL APPROPRIATION .....	(\$28,224,000)
	<u>\$28,389,000</u>

Sec. 112. 2005 c 518 s 113 (uncodified) is amended to read as follows:

**FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund—State Appropriation (FY 2006) .....	(\$19,657,000)
	<u>\$19,834,000</u>
General Fund—State Appropriation (FY 2007) .....	(\$20,081,000)
	<u>\$21,298,000</u>
Public Safety and Education Account—State Appropriation .....	(\$50,106,000)
	<u>\$50,277,000</u>
Judicial Information Systems Account—State Appropriation .....	(\$25,641,000)
	<u>\$26,051,000</u>
<u>Pension Funding Stabilization Account Appropriation .....</u>	<u>\$96,000</u>
TOTAL APPROPRIATION .....	(\$115,485,000)
	<u>\$117,556,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$900,000 of the general fund—state appropriation for fiscal year 2006 and \$900,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for court-appointed special advocates in dependency matters. The administrator for the courts, after consulting with the association of juvenile court administrators and the association of court-appointed special advocate/guardian ad litem programs, shall distribute the funds to volunteer court-appointed special advocate/guardian ad litem programs. The distribution of funding shall be based on the number of children who need volunteer court-appointed special advocate representation and shall be equally accessible to all volunteer court-appointed special advocate/guardian ad litem programs. The



administrator for the courts shall not retain more than six percent of total funding to cover administrative or any other agency costs.

(2) \$3,000,000 of the public safety and education account appropriation is provided solely for school district petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. The office of the administrator for the courts shall develop an interagency agreement with the office of the superintendent of public instruction to allocate the funding provided in this subsection. Allocation of this money to school districts shall be based on the number of petitions filed.

(3) \$13,224,000 of the public safety and education account appropriation is provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The office of the administrator for the courts shall not retain any portion of these funds to cover administrative costs. The office of the administrator for the courts, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

(4) The distributions made under subsection (3) of this section and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

(5) Each fiscal year during the 2005-07 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing truancy, children in need of services, and at-risk youth petitions. Counties shall submit the reports to the administrator for the courts no later than 45 days after the end of the fiscal year. The administrator for the courts shall electronically transmit this information to the chairs and ranking minority members of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a fiscal year ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

(6) \$82,000 of the general fund—state appropriation for fiscal year 2006 and \$82,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of House Bill No. 1112 (creating an additional superior court position). If the bill is not enacted by June 30, 2005, the amounts in this subsection shall lapse.

(7) \$75,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the implementation of Substitute House Bill No. 1854 (driving privilege) and Engrossed Second Substitute Senate Bill No. 5454 (court operations). If neither bill is enacted by June 30, 2005, the amount in this subsection shall lapse.

(8) \$569,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the juror pay pilot and research project.

**Sec. 113.** 2005 c 518 s 114 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF PUBLIC DEFENSE**

General Fund—State Appropriation (FY 2006) . . . . . ~~(\$1,490,000)~~  
\$1,565,000

General Fund—State Appropriation (FY 2007) . . . . .	(\$2,078,000)
	<u>\$9,928,000</u>
Public Safety and Education Account—State	
Appropriation . . . . .	(\$13,175,000)
	<u>\$13,181,000</u>
TOTAL APPROPRIATION . . . . .	(\$16,743,000)
	<u>\$24,674,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$800,000 of the general fund—state appropriation for fiscal year 2006 and ~~(\$1,000,000)~~ \$4,500,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to expand the parent representation project in dependency and termination cases.

(2) Amounts provided from the public safety and education account appropriation in this section include funding for investigative services in death penalty personal restraint petitions.

(3) Within amounts appropriated in this section and in Engrossed Second Substitute Senate Bill No. 5454, the office may, at its discretion, implement Second Substitute House Bill No. 1542 (indigent defense services).

**Sec. 114.** 2005 c 518 s 115 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF CIVIL LEGAL AID**

General Fund—State Appropriation (FY 2006) . . . . .	(\$2,883,000)
	<u>\$3,083,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$2,832,000)
	<u>\$3,232,000</u>
Public Safety and Education Account—State	
Appropriation . . . . .	\$4,705,000
Violence Reduction and Drug Enforcement Account—	
State Appropriation . . . . .	\$2,987,000
TOTAL APPROPRIATION . . . . .	(\$13,407,000)
	<u>\$14,007,000</u>

~~((The appropriations in this section are subject to the following conditions and limitations:~~

~~(1) \$2,783,000 of the general fund—state appropriation for fiscal year 2006, \$2,732,000 of the general fund—state appropriation for fiscal year 2007, \$4,705,000 of the public safety and education account—state appropriation, and \$2,987,000 of the violence reduction and drug enforcement account—state appropriation are contingent upon enactment of Substitute House Bill No. 1747 (civil legal services). If the bill is not enacted by June 30, 2005, these appropriations shall be made to the department of community, trade, and economic development and are provided solely for the purpose of civil legal services.~~

~~(2) \$100,000 of the general fund—state appropriation for fiscal year 2006 and \$100,000 of the general fund—state appropriation for fiscal year 2007 are contingent upon enactment of Substitute House Bill No. 1747 (civil legal services). If the bill is not enacted by June 30, 2005, the appropriation shall be made to the department of community, trade, and economic development and is~~

~~provided solely for a general farm organization with members in every county of the state to develop and administer an alternative dispute resolution system for disputes between farmers and farm workers:)~~

**Sec. 115.** 2005 c 518 s 116 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE GOVERNOR**

General Fund—State Appropriation (FY 2006) . . . . .	\$5,600,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$5,279,000)</del>
	<u>\$5,583,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$1,364,000)</del>
	<u>\$1,366,000</u>
Oil Spill Prevention Account Appropriation . . . . .	\$508,000
Water Quality Account—State Appropriation . . . . .	<del>(\$4,184,000)</del>
	<u>\$4,193,000</u>
<u>Salmon Recovery Account Appropriation . . . . .</u>	<u>\$160,000</u>
<u>Economic Development Strategic Reserve</u>	
<u>Account Appropriation . . . . .</u>	<u>\$4,000,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$24,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$16,935,000)</del>
	<u>\$21,434,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$4,112,000 of the water quality account appropriation and \$1,150,000 of the general fund—federal appropriation are provided solely for the Puget Sound water quality action team to implement the Puget Sound conservation and recovery plan action items PSAT-01 through PSAT-06.

(2) \$200,000 of the general fund—state appropriation for fiscal year 2006, \$200,000 of the general fund—state appropriation for fiscal year 2007, and \$200,000 of the general fund—federal appropriation are provided solely for one-time corrective actions to address Hood canal's dissolved oxygen problems, the Puget Sound conservation and recovery plan action item PSAT-07.

(3) As described in section 129(7) of this act, the Puget Sound water quality action team shall make recommendations and report on monitoring activities related to salmon recovery.

(4) \$250,000 of the general fund—state appropriation for fiscal year 2006 and \$100,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of House Bill No. 1152 (early learning council). If House Bill No. 1152 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(5) For the governor's funding request pursuant to RCW 74.39A.300 to be submitted to the legislature by December 20, 2006, it is the intent of the legislature to consider a fringe benefits funding request that provides health care benefits substantially equivalent in cost to those available to individual providers pursuant to chapter 25, Laws of 2003 1st sp. sess.

(6) \$100,000 of the general fund—state appropriation for fiscal year 2006 and \$100,000 of the general fund—state appropriation for fiscal year 2007 are provided solely as a grant to the Hood Canal Coordinating Council to implement Engrossed Substitute House Bill No. 2097 (management program for Hood

Canal). (~~If Engrossed Substitute House Bill No. 2097 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.~~)

(7) \$100,000 of the general fund—state appropriation for fiscal year 2006 and \$100,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for a review of ocean policy issues in cooperation with individuals with appropriate expertise and the departments of ecology, fish and wildlife, and natural resources. By December 31, 2005, the governor's office shall identify the recommendations of the U.S. commission on ocean policy appropriate for immediate implementation. By December 31, 2006, the governor's office shall provide a report: (a) Summarizing the condition of the state's ocean resources and their contribution to the state's character, quality of life, and economic viability; (b) recommending improvements in coordination among state agencies and other jurisdictions; (c) recommending measures to protect and manage ocean resources; (d) recommending measures to finance ocean protection, management, and development programs; and (e) recommending legislation regarding ocean resources or policy.

(8) \$508,000 of the oil spill prevention account appropriation is provided solely for the oil spill advisory council established in Engrossed Substitute Senate Bill No. 5432 (oil spill oversight council). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(9) The economic development strategic reserve account appropriation is provided solely for the purpose of implementing chapter 427, Laws of 2005 (2SSB 5370).

(10)(a) \$297,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Puget Sound action team in coordination with the Hood Canal coordinating council to contract for the initial phase of a two-part study in the Hood Canal to: (i) Improve data and knowledge of the loading of nitrogen from on-site sewage systems to ground water; (ii) determine the local scale efficiency of nitrogen removal from on-site sewage systems; and (iii) improve data and knowledge of the loading of nitrogen from all ground water sources to Hood Canal.

(b) The study shall: (i) Locate representative on-site sewage systems distributed within the Hood Canal drainage basin for use in the study; (ii) collect water levels and samples from the areas around a number of on-site sewage systems under a variety of water table, soil, and geologic conditions; (iii) test samples for nitrogen, phosphorous, carbon, and other pertinent chemistry; (iv) consider water levels and samples from monitoring wells both up gradient and down gradient from on-site sewage systems; (v) collect data from drain fields to test on-site sewage system efficiency; and (vi) collect water level, nutrient, and other chemical data from a number of existing wells in the watershed to test how much nitrogen is reaching Hood Canal. The study shall be coordinated with other studies being conducted in Hood Canal through the Hood Canal dissolved oxygen program. The Puget Sound action team and the Hood Canal coordinating council shall report their finding and recommendations to the appropriate committees of the legislature by December 1, 2007.

**Sec. 116.** 2005 c 518 s 117 (uncodified) is amended to read as follows:

**FOR THE LIEUTENANT GOVERNOR**

General Fund—State Appropriation (FY 2006) . . . . . \$752,000

General Fund—State Appropriation (FY 2007) . . . . .	(\$766,000)
	\$768,000
<del>((General Fund—Local Appropriation . . . . .</del>	<del>\$1,000)</del>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$3,000</u>
TOTAL APPROPRIATION . . . . .	(\$1,519,000)
	\$1,523,000

Sec. 117. 2005 c 518 s 118 (uncodified) is amended to read as follows:

**FOR THE PUBLIC DISCLOSURE COMMISSION**

General Fund—State Appropriation (FY 2006) . . . . .	(\$1,989,000)
	\$1,999,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$2,009,000)
	\$2,069,000
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$10,000</u>
TOTAL APPROPRIATION . . . . .	(\$3,998,000)
	\$4,078,000

The appropriations in this section are subject to the following conditions and limitations: \$10,000 of the general fund—state appropriation for fiscal year 2006 and \$56,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Third Substitute House Bill No. 1226 (campaign contribution limits). If Third Substitute House Bill No. 1226 is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

Sec. 118. 2005 c 518 s 119 (uncodified) is amended to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund—State Appropriation (FY 2006) . . . . .	(\$19,102,000)
	\$21,593,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$17,323,000)
	\$18,473,000
General Fund—Federal Appropriation . . . . .	(\$7,092,000)
	\$7,099,000
General Fund—Private/Local Appropriation . . . . .	(\$125,000)
	\$207,000
Archives and Records Management Account—State Appropriation . . . . .	(\$8,127,000)
	\$8,210,000
Department of Personnel Services Account—State Appropriation . . . . .	(\$719,000)
	\$721,000
Local Government Archives Account—State Appropriation . . . . .	(\$12,138,000)
	\$12,398,000
Election Account—Federal Appropriation . . . . .	(\$47,009,000)
	\$53,010,000
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$66,000</u>
TOTAL APPROPRIATION . . . . .	(\$111,635,000)
	\$121,777,000

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~(\$2,296,000)~~) \$3,472,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2) (~~(\$1,999,000)~~) \$2,441,000 of the general fund—state appropriation for fiscal year 2006 and \$2,403,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, and the publication and distribution of the voters and candidates pamphlet.

(3) \$125,000 of the general fund—state appropriation for fiscal year 2006 and \$118,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for legal advertising of state measures under RCW 29.27.072.

(4)(a) \$2,028,004 of the general fund—state appropriation for fiscal year 2006 and (~~(\$2,063,772)~~) \$2,382,772 of the general fund—state appropriation for fiscal year 2007 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2005-07 biennium. The funding level for each year of the contract shall be based on the amount provided in this subsection. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution. The office of the secretary of state may make full or partial payment once all criteria in (a) and (b) of this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a contract with the nonprofit organization to provide public affairs coverage.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(5) \$196,000 of the general fund—state appropriation for fiscal year 2006 and \$173,000 of the general fund—state appropriation for fiscal year 2007 are provided for the implementation of House Bill No. 1749 (county election

procedures). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(6) \$110,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the purposes of settling all claims in *Washington State Democratic Party, et al. v. Sam S. Reed, et al.*, United States District Court Western District of Washington at Tacoma Cause No. C00-5419FDB and related appeal. The expenditure of this appropriation is contingent on the release of all claims in the case and related appeal, and total settlement costs shall not exceed the appropriation in this subsection.

(7) \$131,000 of the general fund—state appropriation for fiscal year 2006 and \$196,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for expenditures related to the *Farrakhan v. Locke* litigation.

**Sec. 119.** 2005 c 518 s 120 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS**

General Fund—State Appropriation (FY 2006) . . . . .	\$277,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$289,000)</del>
	<u>\$292,000</u>
<u>Pension Funding Stabilization Account—State</u>	
Appropriation . . . . .	\$1,000
TOTAL APPROPRIATION . . . . .	<del>(\$566,000)</del>
	<u>\$570,000</u>

The appropriations in this section are subject to the following conditions and limitations: The office shall assist the department of personnel on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department of personnel shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

**Sec. 120.** 2005 c 518 s 121 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON ASIAN-PACIFIC-AMERICAN AFFAIRS**

General Fund—State Appropriation (FY 2006) . . . . .	\$235,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$238,000)</del>
	<u>\$264,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$1,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$473,000)</del>
	<u>\$500,000</u>

**Sec. 121.** 2005 c 518 s 122 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER**

State Treasurer's Service Account—State	
Appropriation . . . . .	<del>(\$14,124,000)</del>
	<u>\$14,174,000</u>

**Sec. 122.** 2005 c 518 s 123 (uncodified) is amended to read as follows:

**FOR THE STATE AUDITOR**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$1,884,000)</del>
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	<u>\$1,258,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$2,441,000</del> ))
	<u>\$351,000</u>
State Auditing Services Revolving Account—State Appropriation . . . . .	(( <del>\$13,952,000</del> ))
	<u>\$14,011,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$4,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$18,277,000</del> ))
	<u>\$15,624,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district's certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) \$731,000 of the general fund—state appropriation for fiscal year 2006 and \$727,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs; establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

(3) The office shall report to the office of financial management and the appropriate fiscal committees of the legislature detailed information on risk-based auditing, its theory, and its application for the audits performed on Washington state government. The report shall include an explanation of how the office identifies, measures, and prioritizes risk, the manner in which the office uses these factors in the planning and execution of the audits of Washington state government, and the methods and procedures used in the conduct of the risk-based audits themselves. The report is due no later than December 1, 2005.

(4) ~~((~~\$1,130,000~~))~~ \$100,000 of the general fund—state appropriation for fiscal year 2006 ~~((~~\$1,695,000~~ of the general fund—state appropriation for fiscal year 2007, and \$2,000 of the state auditing services revolving account—state appropriation for fiscal year 2006 are))~~ is provided solely for the implementation of Engrossed Substitute House Bill No. 1064 (government performance). ~~((If Engrossed Substitute House Bill No. 1064 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.))~~

(5) \$16,000 of the general fund—state appropriation for fiscal year 2006 is provided for a review of special education excess cost accounting and reporting requirements. The state auditor's office shall coordinate this work with the joint legislative audit and review committee's review of the special education excess cost accounting methodology and expenditure reporting requirements. The state auditor's review shall include an examination of whether school districts are (a) appropriately implementing the excess cost accounting methodology; (b) consistently charging special education expenses to the special education and



basic education programs; (c) appropriately determining the percentage of expenditures that should be charged to the special education and basic education programs; and (d) appropriately and consistently reporting special education expenditures. The results of this review will be included in the joint legislative audit and review committee's report issued in January 2006.

**Sec. 123.** 2005 c 518 s 124 (uncodified) is amended to read as follows:

**FOR THE CITIZENS' COMMISSION ON SALARIES FOR ELECTED OFFICIALS**

General Fund—State Appropriation (FY 2006) . . . . .	\$137,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$206,000)</del>
	<u>\$207,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$343,000)</del>
	<u>\$344,000</u>

**Sec. 124.** 2005 c 518 s 125 (uncodified) is amended to read as follows:

**FOR THE ATTORNEY GENERAL**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$5,223,000)</del>
	<u>\$5,724,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$5,156,000)</del>
	<u>\$5,844,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$2,973,000)</del>
	<u>\$3,428,000</u>
Public Safety and Education Account—State Appropriation . . . . .	<del>(\$2,303,000)</del>
	<u>\$2,307,000</u>
New Motor Vehicle Arbitration Account—State Appropriation . . . . .	<del>(\$1,313,000)</del>
	<u>\$1,315,000</u>
Legal Services Revolving Account—State Appropriation . . . . .	<del>(\$185,970,000)</del>
	<u>\$191,627,000</u>
Tobacco Prevention and Control Account—State Appropriation . . . . .	\$270,000
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$21,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$203,208,000)</del>
	<u>\$210,536,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year.

(2) Prior to entering into any negotiated settlement of a claim against the state that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on appropriations.

**Sec. 125.** 2005 c 518 s 126 (uncodified) is amended to read as follows:

**FOR THE CASELOAD FORECAST COUNCIL**

General Fund—State Appropriation (FY 2006) . . . . .	\$719,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$714,000)
	<u>\$716,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$4,000</u>
TOTAL APPROPRIATION . . . . .	(\$1,433,000)
	<u>\$1,439,000</u>

\*Sec. 126. 2005 c 518 s 127 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT**

General Fund—State Appropriation (FY 2006) . . . . .	(\$66,123,000)
	<u>\$67,758,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$67,151,000)
	<u>\$60,229,000</u>
General Fund—Federal Appropriation . . . . .	(\$246,886,000)
	<u>\$258,085,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$12,229,000)
	<u>\$12,422,000</u>
Public Safety and Education Account—State Appropriation . . . . .	(\$5,439,000)
	<u>\$5,443,000</u>
Public Works Assistance Account—State Appropriation . . . . .	(\$3,395,000)
	<u>\$3,430,000</u>
Tourism Development and Promotion Account Appropriation . . . . .	\$300,000
Drinking Water Assistance Administrative Account— State Appropriation . . . . .	(\$213,000)
	<u>\$345,000</u>
Lead Paint Account—State Appropriation . . . . .	\$6,000
Building Code Council Account—State Appropriation . . . . .	(\$1,130,000)
	<u>\$1,133,000</u>
Administrative Contingency Account—State Appropriation . . . . .	(\$1,808,000)
	<u>\$1,809,000</u>
Low-Income Weatherization Assistance Account—State Appropriation . . . . .	\$8,362,000
Violence Reduction and Drug Enforcement Account—State Appropriation . . . . .	(\$7,231,000)
	<u>\$7,234,000</u>
Manufactured Home Installation Training Account—State Appropriation . . . . .	\$240,000
Community and Economic Development Fee Account—State Appropriation . . . . .	\$1,570,000
Washington Housing Trust Account—State Appropriation . . . . .	(\$19,009,000)
	<u>\$33,536,000</u>
Homeless Families Services Account—State	

Appropriation . . . . .	\$300,000
Public Facility Construction Loan Revolving Account—State Appropriation . . . . .	(( <del>\$614,000</del> ))
	<u>\$616,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$87,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$442,006,000</del> ))
	<u>\$462,905,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,838,000 of the general fund—state appropriation for fiscal year 2006 and \$2,838,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for a contract with the Washington technology center for work essential to the mission of the Washington technology center and conducted in partnership with universities. The center shall not pay any increased indirect rate nor increases in other indirect charges above the absolute amount paid during the 1995-97 fiscal biennium.

(2) \$5,902,000 of the general fund—federal appropriation is provided solely for the justice assistance grant program, to be distributed in state fiscal year 2006 as follows:

- (a) \$2,064,000 to local units of government to continue multijurisdictional narcotics task forces;
- (b) \$330,000 to the department to continue the drug prosecution assistance program in support of multijurisdictional narcotics task forces;
- (c) \$675,000 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;
- (d) \$20,000 to the department for tribal law enforcement;
- (e) \$345,000 to the department to continue domestic violence legal advocacy;
- (f) \$60,000 to the department for community-based advocacy services to victims of violent crime, other than sexual assault and domestic violence;
- (g) \$351,000 to the department of social and health services, division of alcohol and substance abuse, for juvenile drug courts in eastern and western Washington;
- (h) \$626,000 to the department of social and health services to continue youth violence prevention and intervention projects;
- (i) \$97,000 to the department to continue evaluation of this grant program;
- (j) \$290,000 to the office of financial management for criminal history records improvement;
- (k) \$580,000 to the department for required grant administration, monitoring, and reporting on justice assistance grant programs; and
- (l) \$464,000 to the department for distribution to small municipalities.

These amounts represent the maximum justice assistance grant expenditure authority for each program. No program may expend justice assistance grant funds in excess of the amounts provided in this subsection. If moneys in excess of those appropriated in this subsection become available, whether from prior or current fiscal year distributions, the department shall hold these moneys in reserve and may not expend them without specific appropriation. These moneys

shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding year, the department shall estimate and request authority to spend any justice assistance grant funds.

(3) \$3,600,000 of the general fund—federal appropriation is provided solely for the justice assistance grant program, to be distributed in state fiscal year 2007 as follows:

(a) \$2,013,000 to local units of government to continue multijurisdictional narcotics task forces;

(b) \$330,000 to the department to continue the drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(c) \$675,000 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces;

(d) \$110,000 to the department to support the governor's council on substance abuse;

(e) \$97,000 to the department to continue evaluation of the justice assistance grant program;

(f) \$360,000 to the department for required grant administration, monitoring, and reporting on justice assistance grant programs; and

(g) \$15,000 to the department for a tribal and local law enforcement statewide summit.

(4) \$1,658,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for multijurisdictional drug task forces. The funding for this amount, and the amounts provided in subsection (3)(a) and (b) of this section, will be distributed in a manner so that all drug task forces funded in fiscal year 2004 will receive funding in fiscal year 2007 at amounts similar to the amounts received in fiscal year 2004.

(5) \$170,000 of the general fund—state appropriation for fiscal year 2006 and ~~(\$170,000)~~ \$700,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to fund domestic violence legal advocacy, in recognition of reduced federal grant funding.

~~((4))~~ (6) \$28,848,000 of the general fund—state appropriation for fiscal year 2006 ~~(and \$29,941,000 of the general fund—state appropriation for fiscal year 2007 are)~~ is provided solely for providing early childhood education assistance. Of ~~((these))~~ this amount~~(s)~~, \$1,497,000 ~~((in each fiscal year))~~ is provided solely to increase the number of children receiving education, and \$1,052,000 ~~((in fiscal year 2006 and \$2,146,000 in fiscal year 2007 are))~~ is provided solely for a targeted vendor rate increase.

~~((5))~~ (7) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account balances. The department shall contract with a lender or contract collection agent to act as a collection agent of the state. The lender or contract collection agent shall collect payments on outstanding loans, and deposit them into an interest-bearing account. The funds collected shall be remitted to the department quarterly. Interest earned in the account may be retained by the lender or contract collection agent, and shall be considered a fee for processing payments on behalf of the state. Repayments of loans granted under this chapter shall be made to the lender or contract

collection agent as long as the loan is outstanding, notwithstanding the repeal of the chapter.

~~((6))~~ (8) \$1,288,000 of the Washington housing trust account—state appropriation is provided solely to implement Engrossed House Bill No. 1074. If the bill is not enacted by June 30, 2005, the amounts in this subsection shall lapse.

~~((7))~~ (9) \$725,000 of the general fund—state appropriation for fiscal year 2006 and \$725,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for food banks to obtain and distribute additional nutritious food; and purchase equipment to transport and store perishable products.

~~((8) \$500,000)~~ (10) \$1,000,000 of the general fund—state appropriation for fiscal year 2006 and ~~((500,000))~~ \$1,000,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the community services block grant program to help meet current service demands that exceed available community action resources.

~~((9))~~ (11) \$215,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for matching funds for a federal economic development administration grant awarded to the city of Kent to conduct a feasibility study and economic analysis for the establishment of a center for advanced manufacturing.

~~((10))~~ (12) \$20,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the department to compile a report on housing stock in Washington state to identify areas of potentially high risk for child lead exposure. This report shall include an analysis of existing data regarding the ages of housing stock in specific regions and an analysis of data regarding actual lead poisoning cases, which shall be provided by the department of health's childhood lead poisoning surveillance program.

~~((11))~~ (13) \$150,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the Cascade land conservancy to develop and implement a plan for regional conservation within King, Kittitas, Pierce, and Snohomish counties.

~~((12))~~ (14) \$50,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the support, including safety and security costs, of the America's freedom salute to be held in the Vancouver, Washington area.

~~((13))~~ (15) \$250,000 of the general fund—state appropriation for fiscal year 2006 and \$250,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to Snohomish county for a law enforcement and treatment methamphetamine pilot program. \$250,000 of the general fund—state appropriation for fiscal year 2006 and \$250,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to the Pierce county alliance's methamphetamine family services treatment program and safe streets of Tacoma's methamphetamine prevention service.

~~((14))~~ (16) \$50,000 of the general fund—state appropriation is provided solely for one pilot project to promote the study and implementation of safe neighborhoods through community planning.

~~((15))~~ (17) \$287,000 of the general fund—state appropriation for fiscal year 2006 and \$288,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for Walla Walla community college to establish the water and environmental studies center to provide workforce education and

training, encourage innovative approaches and practices that address environmental and cultural issues, and facilitate the Walla Walla watershed alliance role in promoting communication leading to cooperative conservation efforts that effectively address urban and rural water and environmental issues.

~~((16))~~ (18) \$50,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for work with the northwest food processors association on the food processing cluster development project.

~~((17))~~ \$200,000 of the general fund—state appropriation for fiscal year 2006 and \$100,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the northwest agriculture incubator project, which will support small farms in economic development)) (19) \$140,000 of the general fund—state appropriation for fiscal year 2006 and \$210,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the northwest agriculture incubator project, which will support small farms in economic development.

~~((18))~~ (20) \$75,000 of the general fund—state appropriation for fiscal year 2006 and \$75,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to the department of community, trade, and economic development as the final appropriation for the youth assessment center in Pierce county for activities dedicated to reducing the rate of incarceration of juvenile offenders.

~~((19))~~ (21) \$235,000 of the general fund—state appropriation for fiscal year 2006 and \$235,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of the small business incubator program. \$250,000 must be distributed as grants and must be matched by an equal amount of private funds.

~~((20))~~ (22) The department shall coordinate any efforts geared towards the 2010 Olympics with the regional effort being conducted by the Pacific northwest economic region, a statutory committee.

~~((21))~~ (23) \$75,000 of the general fund—state appropriation for fiscal year 2006 and \$75,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for HistoryLink to expand its free, noncommercial online encyclopedia service on state and local history.

~~((22))~~ (24) \$25,000 of the general fund—state appropriation for fiscal year 2006 and \$25,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for Women's Hearth, a nonprofit program serving the Spokane area's homeless and low-income women.

(25) \$250,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to the Pacific Science Center to host the dead sea scrolls exhibition in September 2006.

(26) \$2,000,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for providing statewide sexual assault services.

(27) \$96,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Olympic loop of the great Washington state birding trail.

(28) \$529,000 of the general fund—federal appropriation is provided solely for the department to provide to the department of archeology and historic preservation through an interagency agreement. The full amount of federal funding shall be transferred. The department of community, trade, and economic development shall not retain any portion for administrative purposes.

(29) \$150,000 of the general fund—state appropriation in fiscal year 2007 is provided solely to assist the suburban cities association, King county, and the cities of Seattle and Bellevue to comply with the most acute buildable lands needs countywide. Of this amount, \$50,000 is provided solely to the suburban cities association to fully fund a buildable lands program manager position.

(30) \$116,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for an increase to the statewide coordination of the volunteer programs for court-appointed special advocates.

(31) \$25,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the energy facilities siting and evaluation council to make rules related to RCW 80.70.070, the carbon dioxide mitigation statute.

(32) \$712,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the department to provide each county with an additional 0.5 FTE for prosecutors' victim/witness units.

(33) \$250,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the department to implement two demonstration pilot projects related to transfer of development rights in cooperation with Snohomish and Pierce county legislative authorities. Projects may receive no more than \$100,000.

(34) \$250,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Seattle police department, and is to be divided evenly between the weed and seed programs in southeast Seattle and South Delridge/White Center to mitigate a one-year funding lapse from the federal department of justice. This appropriation is for the continuation of community police work and community building in these areas.

(35) \$125,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to the Thurston county prosecutor's office, for the Rochester weed and seed program to mitigate a one-year funding lapse from the federal department of justice. This appropriation is for the continuation of community police work and community building in Rochester.

(36) \$250,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to the city of Poulsbo for the reopening of the Poulsbo marine science center as an educational facility on the Puget Sound marine environment.

(37) \$544,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for an upgrade to discovery park's daybreak star cultural center electrical system.

(38) \$670,000 of the housing trust account appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2418 (affordable housing program). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(39) \$400,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Second Substitute House Bill No. 2498 (cluster-based economic development). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(40) \$186,000 of the general fund—local appropriation for fiscal year 2007 is provided solely for the implementation of Substitute House Bill No. 2402 (energy facilities). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(41) \$118,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of House Bill No. 3156 (low income persons). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

*(42) \$400,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Third Substitute House Bill No. 1815 (small business incubators). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.*

(43) \$200,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for one-time backfill of the federal reductions to the safe and drug free schools and communities grant program.

(44) \$300,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the developmental disabilities council to contract for legal services for individuals with developmental disabilities who are served or are entering the community protection program in the department of social and health services division of developmental disabilities. Funding shall be prioritized for those individuals who do not have paid legal guardians, but is available to all community protection clients, subject to available funds.

(45) \$100,000 of the fiscal year 2006 general fund—state appropriation is provided solely for tourism branding and marketing associated with the January 2007 United States figure skating championships in Spokane. It is the intent of the legislature to provide an additional \$500,000 during the 2007-09 fiscal biennium for the payment of one-half of the hosting fee if Spokane is designated as the host city of the 2009 world figure skating championships. The funds provided under this section are contingent on an equal amount of matching funds from nonstate sources.

(46) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to the Pacific northwest economic region as matching funds for use in the development and operation of a regional tourism initiative in coordination with the department and consistent with the governor's initiatives on marketing, tourism, and trade. The department and the Pacific northwest economic region will jointly establish appropriate deliverables. The first \$25,000 of this amount will be released when the Pacific northwest economic region has secured at least \$75,000 in funding from other public and private sources. The final \$25,000 of this amount will be released when the Pacific northwest economic region has secured an additional \$75,000 in funding from other public and private sources. A minimum of 25 percent of the matching funds raised by the Pacific northwest economic region for the initiative shall be from private sources.

(47) \$50,000 of the general fund—state appropriation for fiscal year 2006 and \$50,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to the international trade alliance of Spokane to partnership with other regional governments to strengthen and diversify the regional economy.

(48) \$75,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to contract for a study that will provide recommendations on a small harbor dredging cooperative among the port districts of Pacific County and Wahkiakum County. The recommendations shall include options for an organizational framework, as well as the long-term financing of the cooperative.



(49) \$20,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to the Pacific-Algona senior center, a nonprofit food program serving low-income seniors.

(50) \$25,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to the northwest Korean sports and cultural festival.

(51) \$2,500,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to allow Washington state tribes to continue participation in the *Forest and Fish Report* currently out for public comment as a habitat conservation plan under the endangered species act. In the event federal funding is reinstated, the amount provided in this subsection shall lapse.

(52) \$5,000 of the general fund—state appropriation for fiscal year 2006 is provided for Tacoma's international music festival.

(53) \$200,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the Mimms Academy in Tacoma to facilitate a pilot project concerning expelled and suspended students.

(54) \$150,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to the King county sexual assault resource center to provide for a Spanish-speaking therapist position, parent/child victim education, and prevention education.

(55) \$67,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for a study of methamphetamine action teams and drug task forces as provided by Engrossed Substitute Senate Bill No. 6239, sections 110 and 204 (controlled substances). The department shall report findings and recommendations to the legislature by November 1, 2006. If the bill is not enacted by June 30, 2006, the amount provided in this section shall lapse.

(56) \$84,000 of the general fund—state appropriation for fiscal year 2006 and \$84,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for distribution to Benton and Franklin counties to continue the Benton-Franklin juvenile drug court program. The counties shall provide an equivalent amount of matching funds.

(57) \$7,000,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to the owners of the following minor league baseball facilities for major and minor restoration and repair of facilities projects: Tacoma Rainiers (\$2,500,000); Spokane Indians (\$2,000,000); Tri-Cities Dust Devils (\$1,000,000); Yakima Bears (\$750,000); and Everett AquaSox (\$750,000). The department shall not retain any portion for administrative purposes.

(58) \$40,000 of the fiscal year 2006 general fund—state appropriation and \$1,510,000 of the fiscal year 2007 general fund—state appropriation are provided solely for the department to enter into funding agreements with the mountains to sound greenway trust to accomplish the following projects: Squak mountain trail upgrades; Tiger mountain trailhead and trails upgrades; Rattlesnake mountain trail and trailhead construction; greenway legacy planning; Snoqualmie point view park construction; and state route 18/interstate 90 interchange protection.

(59) \$149,000 of the general fund—state appropriation in fiscal year 2007 is provided solely to implement a human trafficking task force as described in section 1 of Substitute Senate Bill No. 6652 (human trafficking), authorizing a

task force through June 30, 2011, to provide guidance in responding to the crime of human trafficking, and in providing services to human trafficking victims.

(60) \$140,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Engrossed Senate Bill No. 5330 (economic development grants). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(61) \$200,000 of the general fund—state appropriation for fiscal year 2007 and \$197,000 of the general fund—federal appropriation for fiscal year 2007 are provided solely for the long-term care ombudsman program within the department of community, trade, and economic development to recruit and train volunteers to serve in the adult family home setting.

(62) \$150,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Enumclaw loggers monument.

(63) \$265,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Substitute Senate Bill No. 6330 (the Washington trade corps fellowship program). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

\*Sec. 126 was partially vetoed. See message at end of chapter.

Sec. 127. 2005 c 518 s 128 (uncodified) is amended to read as follows:

<b>FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL</b>	
General Fund—State Appropriation (FY 2006) . . . . .	(\$573,000)
	\$579,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$517,000)
	\$523,000
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	\$3,000
TOTAL APPROPRIATION . . . . .	(\$1,090,000)
	\$1,105,000

\*Sec. 128. 2005 c 518 s 129 (uncodified) is amended to read as follows:

<b>FOR THE OFFICE OF FINANCIAL MANAGEMENT</b>	
General Fund—State Appropriation (FY 2006) . . . . .	(\$16,993,000)
	\$17,775,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$16,050,000)
	\$20,080,000
General Fund—Federal Appropriation . . . . .	(\$23,550,000)
	\$23,555,000
<u>General Fund—Private/Local Appropriation . . . . .</u>	\$1,216,000
Public Works Assistance Account—State Appropriation . . . . .	\$200,000
Violence Reduction and Drug Enforcement Account—State Appropriation . . . . .	\$246,000
State Auditing Services Revolving Account—State Appropriation . . . . .	\$25,000
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	\$100,000
TOTAL APPROPRIATION . . . . .	(\$57,064,000)
	\$63,197,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the public works assistance account appropriation is provided solely for an inventory and evaluation of the most effective way to organize the state public infrastructure programs and funds. The inventory and evaluation shall be delivered to the governor and the appropriate committees of the legislature by September 1, 2005.

(2)(a) (~~(\$182,000)~~) \$62,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for an advisory council to study residential services for persons with developmental disabilities. The study shall identify a preferred system of services and a plan to implement the system within four years. Recommendations shall be provided on the services that best address client needs in different regions of the state and on the preferred system by January 1, 2006. The office of financial management may contract for specialized services to complete the study.

(b) The advisory council shall consist of thirteen members. Members appointed by the governor, include one representative from each of the governor's office or the office of financial management, the department of social and health services, the Washington state disabilities council, two labor organizations, the community residential care providers, residents of residential habilitation centers, individuals served by community residential programs, and individuals with developmental disabilities who reside or resided in residential habilitation centers. The advisory council shall also include two members of the house of representatives appointed by the speaker of the house of representatives representing the majority and minority caucuses and two members of the senate appointed by the president of the senate representing the majority and minority caucuses. Legislative members of the advisory group shall be reimbursed in accordance with RCW 44.04.120, and nonlegislative members in accordance with RCW 43.03.050 and 44.04.120. Staff support shall be provided by the department of social and health services, the developmental disabilities council, the office of financial management, the house of representatives office of program research, and senate committee services.

(3) *\$1,041,000 of the general fund—state appropriation for fiscal year 2006 and \$706,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5441 (studying early learning, K-12, and higher education). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse. The legislature directs that the funding review by the Washington Learns steering committee authorized in Engrossed Second Substitute Senate Bill No. 5441 include a thorough review of funding for classified school employees and that the Washington Learns steering committee report findings and recommendations that include recommendations on how classified school employees can enhance students' abilities to meet state learning standards.*

(4) \$200,000 of the general fund—state appropriation for fiscal year 2006 is provided to the office of regulatory assistance and is subject to the following conditions and limitations:

(a) This amount is provided solely for the enhanced planning and permit pilot program; and

(b) Regulatory assistance is to select two local government planning and permitting offices to participate in an enhanced permit assistance pilot program. Such enhancement may include, but is not limited to:

(i) Creation of local and state interagency planning and permit review teams;

(ii) Use of advanced online planning and permit applications;

(iii) Using loaned executives; and

(iv) Additional technical assistance and guidance for permit applicants.

(5) \$303,000 of the general fund—state appropriation for fiscal year 2006 and \$255,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Second Substitute House Bill No. 1970 (government management). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(6) \$200,000 of the general fund—state appropriation for fiscal year 2006 and \$200,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for implementation of Substitute Engrossed House Bill No. 1242 (budgeting outcomes and priorities). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(7) The department of ecology, the department of fish and wildlife, the department of natural resources, the conservation commission, and the interagency committee for outdoor recreation shall make recommendations to improve or eliminate monitoring activities related to salmon recovery and watershed health. The agencies shall coordinate with the governor's forum on monitoring and watershed health and consult with the office of financial management in determining the scope and contents of the report.

The agencies shall prepare a report detailing all new activity and updating all previously identified activity within the comprehensive monitoring strategy. The report shall identify the monitoring activity being performed and include: The purpose of the monitoring activity, when the activity started, who uses the information, how often it is accessed, what costs are incurred by fund, what frequency is used to collect data, what geographic location is used to collect data, where the information is stored, and what is the current status and cost by fund source of the data storage systems.

The agencies shall provide a status report summarizing progress to the governor's forum on monitoring and watershed health and the office of financial management by March 1, 2006. A final report to the governor's monitoring forum, the office of financial management, and the appropriate legislative fiscal committees shall be submitted no later than September 1, 2006.

(8) \$200,000 of the general fund—state appropriation for fiscal year 2007 is provided to the office of financial management for the purpose of contracting with the Washington State University and University of Washington policy consensus center to provide project coordination for the office of financial management, the department of agriculture, the conservation commission, and the department of community, trade, and economic development to work with farmers, ranchers, and other interested parties to identify potential agricultural pilot projects that both enhance farm income and improve protection of natural resources.

(9) \$50,000 of the general fund—state appropriation for fiscal year 2006 and \$500,000 of the general fund—state appropriation for fiscal year 2007 are

provided solely for the office of regulatory assistance to implement activities supporting the governor's regulatory improvement program including deployment of interagency permit teams, a business portal, programmatic permits, and an alternative mitigation program.

*(10) The office of financial management shall prepare a report on state-purchased health care costs and expenditures. The report shall analyze the growth in state-purchased health care costs over the last five biennia and compare growth to other state expenditures and state revenues. The report shall propose options for funding the increases in state-funded health care, along with options for adjusting or containing state-funded health care expenditures within a constant portion of total estimated revenues.*

(11) \$46,000 of the general fund—state appropriation for fiscal year 2006 and \$131,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for implementation of Engrossed Second Substitute House Bill No. 2353 (family child care providers). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

(12) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Washington state quality award program to assist state agencies in obtaining the goals of the Washington state quality award.

(13) \$66,000 of the general fund—state appropriation for fiscal year 2006 and \$134,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to establish and provide staff support and technical assistance to the blue ribbon commission on health care costs and access. The commission shall consist of the governor or a designee, who shall serve as chair; two members from each of the four caucuses of the legislature; the insurance commissioner or a designee; the secretary of health; the administrator of the health care authority; the assistant secretary for health and recovery services in the department of social and health services; and the assistant director for insurance services in the department of labor and industries. By December 1, 2006, the commission shall recommend to the governor and legislature a sustainable five-year plan for substantially improving access to affordable health care for all Washington residents.

\*Sec. 128 was partially vetoed. See message at end of chapter.

**Sec. 129.** 2005 c 518 s 130 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF ADMINISTRATIVE HEARINGS**

Administrative Hearings Revolving Account—State

Appropriation. . . . .((~~\$29,490,000~~))  
\$29,595,000

The appropriation in this section is subject to the following conditions and limitations: \$103,000 of the administrative hearing revolving account—state appropriation is provided solely to determine, in collaboration with other state agencies, the best mechanism of digital recording for the office of administrative hearings, the manner of conversion from tape recording to digital recording, and the purchase of digital recording devices.

**Sec. 130.** 2005 c 518 s 131 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF PERSONNEL**

Department of Personnel Service Account—State

Appropriation . . . . .	(\$20,323,000)
	<u>\$26,888,000</u>
Higher Education Personnel Services Account—State	
Appropriation . . . . .	(\$1,634,000)
	<u>\$1,656,000</u>
TOTAL APPROPRIATION . . . . .	(\$21,957,000)
	<u>\$28,544,000</u>

The appropriations in this section are subject to the following conditions and limitations: The department shall coordinate with the governor's office of Indian affairs on providing the government-to-government training sessions for federal, state, local, and tribal government employees. The training sessions shall cover tribal historical perspectives, legal issues, tribal sovereignty, and tribal governments. Costs of the training sessions shall be recouped through a fee charged to the participants of each session. The department shall be responsible for all of the administrative aspects of the training, including the billing and collection of the fees for the training.

\*Sec. 131. 2005 c 518 s 132 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE LOTTERY**

Lottery Administrative Account—State Appropriation . . . . .	(\$24,087,000)
	<u>\$24,160,000</u>

The appropriation in this section is subject to the following conditions and limitations:

(1) The appropriation in this section may not be expended by the Washington state lottery for any purpose associated with a lottery game offered through any interactive electronic device, including the internet.

(2) The appropriation in this section may be used for research to support the efforts of the select committee on gambling policy as provided in Senate Concurrent Resolution No. 8417. If the resolution is not enacted by June 30, 2006, this subsection shall lapse.

\*Sec. 131 was partially vetoed. See message at end of chapter.

Sec. 132. 2005 c 518 s 133 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON HISPANIC AFFAIRS**

General Fund—State Appropriation (FY 2006) . . . . .	\$238,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$247,000)
	<u>\$248,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$1,000</u>
TOTAL APPROPRIATION . . . . .	(\$485,000)
	<u>\$487,000</u>

Sec. 133. 2005 c 518 s 134 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS**

General Fund—State Appropriation (FY 2006) . . . . .	\$237,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$240,000)
	<u>\$241,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$1,000</u>
TOTAL APPROPRIATION . . . . .	(\$477,000)
	<u>\$479,000</u>

Sec. 134. 2005 c 518 s 135 (uncodified) is amended to read as follows:

**FOR THE PERSONNEL APPEALS BOARD**

Department of Personnel Service Account—State

Appropriation. . . . . ((~~\$1,043,000~~))  
\$1,119,000

Sec. 135. 2005 c 518 s 136 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—  
OPERATIONS**

Dependent Care Administrative Account—State

Appropriation. . . . . ((~~\$416,000~~))  
\$413,000

Department of Retirement Systems Expense Account—

State Appropriation . . . . . ((~~\$45,056,000~~))  
\$46,176,000

TOTAL APPROPRIATION . . . . . ((~~\$45,472,000~~))  
\$46,589,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$13,000 of the department of retirement systems expense account appropriation is provided solely to implement House Bill No. 1327, chapter 65, Laws of 2005 (purchasing service credit).

(2) \$10,000 of the department of retirement systems expense account appropriation is provided solely to implement House Bill No. 1269, chapter 21, Laws of 2005 (law enforcement officers' and fire fighters' retirement system plan 2 service credit purchase).

(3) \$55,000 of the department of retirement systems expense account appropriation is provided solely to implement House Bill No. 1270 (law enforcement officers' and fire fighters' retirement system plan 2 postretirement employment). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(4) \$26,000 of the department of retirement systems expense account appropriation is provided solely to implement House Bill No. 1319, chapter 62, Laws of 2005 (law enforcement officers' and fire fighters' retirement system plan 1 ex-spouse benefits).

(5) \$46,000 of the department of retirement systems expense account appropriation is provided solely to implement House Bill No. 1325, chapter 64, Laws of 2005 (military service credit purchase).

(6) \$79,000 of the department of retirement systems expense account appropriation is provided solely to implement House Bill No. 1329, chapter 67, Laws of 2005 (law enforcement officers' and fire fighters' retirement system plan 1 reduced survivor benefit).

(7) \$56,000 of the department of retirement systems expense account appropriation is provided solely to implement House Bill No. 1936 (emergency medical technician membership in law enforcement officers' and fire fighters' retirement system plan 2 service). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(8) \$16,000 of the department of retirement systems expense account is provided solely to implement Senate Bill No. 5522 (purchasing service credit

lost due to injury). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(9) \$80,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Senate Bill No. 6453 (minimum monthly retirement). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(10) \$230,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 2932 (catastrophic disability benefit). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(11) \$78,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Substitute House Bill No. 2684 (plan 3 five-year vesting). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(12) \$117,000 of the department of retirement systems expense account—state appropriation is provided solely to implement House Bill No. 2690 (service credit purchase). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(13) \$111,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 2680 (TRS out-of-state service credit). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(14) \$375,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Substitute House Bill No. 2691 (retirement for justices). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**Sec. 136.** 2005 c 518 s 137 (uncodified) is amended to read as follows:

**FOR THE STATE INVESTMENT BOARD**

General Fund—State Appropriation (FY 2007) .....	\$300,000
State Investment Board Expense Account—State Appropriation .....	(((\$16,020,000)) \$16,123,000
<b>TOTAL APPROPRIATION .....</b>	<b>\$16,423,000</b>

The appropriations in this section are subject to the following conditions and limitations: \$300,000 of the general fund—state appropriation in fiscal year 2007 is provided solely to perform an evaluation of the department of natural resources' commercial lands program and review and recommend changes to the investment strategy of state permanent funds. The review of the commercial lands program shall examine:

- (1) Acquisition underwriting procedures;
- (2) Property management post-acquisition;
- (3) Portfolio construction and management strategy;
- (4) Cost structure of the program;
- (5) Performance and appropriateness of the program's investments to date;

and

- (6) Examination of alternatives to the current program.

**\*Sec. 137.** 2005 c 518 s 138 (uncodified) is amended to read as follows:



**FOR THE DEPARTMENT OF REVENUE**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$90,065,000)</del>
	\$90,302,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$91,207,000)</del>
	\$92,647,000
Timber Tax Distribution Account—State Appropriation . . . . .	<del>(\$5,609,000)</del>
	\$5,627,000
<u>Real Estate Excise Tax Grant Account—State</u>	
<u>Appropriation</u> . . . . .	\$3,900,000
Waste Reduction/Recycling/Litter Control—State	
Appropriation . . . . .	\$108,000
State Toxics Control Account—State Appropriation . . . . .	\$73,000
Oil Spill Prevention Account—State Appropriation . . . . .	\$14,000
<u>Pension Funding Stabilization Account Appropriation</u> . . . . .	\$447,000
TOTAL APPROPRIATION . . . . .	<del>(\$187,076,000)</del>
	\$193,118,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$113,000 of the general fund—state appropriation for fiscal year 2006, and \$93,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of House Bill No. 1315 (modifying disclosure requirements for the purposes of the real estate excise tax). If House Bill No. 1315 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(2) \$7,000 of the general fund—state appropriation for fiscal year 2006 and \$2,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Substitute Senate Bill No. 5101 (renewable energy). If Substitute Senate Bill No. 5101 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(3) \$100,000 of the general fund—state appropriation for fiscal year 2006 ~~(is)~~ and \$114,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Engrossed House Bill No. 1241 (modifying vehicle licensing and registration penalties). ~~((If Engrossed House Bill No. 1241 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.))~~

(4) \$1,390,000 of the general fund—state appropriation for fiscal year 2006, and \$1,240,000 of the general fund—state appropriation for fiscal year 2007 are ~~((provided solely))~~ for the department to employ strategies to enhance current revenue enforcement activities.

(5) \$5,121 of the general fund—state appropriation for fiscal year 2006 is provided solely to satisfy two claims to estate property, pursuant to RCW 11.76.245.

(6) \$10,000 of the general fund—state appropriation for fiscal year 2006 and \$89,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Engrossed Second Substitute House Bill No. 2673 (local infrastructure). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

(7) \$147,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Substitute House Bill No. 2457 (tax relief/farm machinery). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(8) \$29,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of House Bill No. 2466 (tax relief for aerospace) or for Second Substitute Senate Bill No. 6604 (tax relief for aerospace). If neither of these bills are enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(9) \$193,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of House Bill No. 2671 (excise tax relief) or Substitute Senate Bill No. 6385 (excise tax relief). If neither of these bills are enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(10) \$33,000 of the general fund—state appropriation for fiscal year 2006 and \$10,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Substitute House Bill No. 2640 (biotechnology product). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

(11) \$176,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Substitute House Bill No. 2670 (hospital benefit zones). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**(12) \$176,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Substitute Senate Bill No. 6594 (streamlined sales tax). If Substitute Senate Bill No. 6594 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.**

\*Sec. 137 was partially vetoed. See message at end of chapter.

**Sec. 138.** 2005 c 518 s 139 (uncodified) is amended to read as follows:

**FOR THE BOARD OF TAX APPEALS**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,362,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$1,211,000)
	<u>\$1,213,000</u>
Pension Funding Stabilization Account Appropriation . . . . .	\$6,000
TOTAL APPROPRIATION . . . . .	(\$2,573,000)
	<u>\$2,581,000</u>

\*Sec. 139. 2005 c 518 s 140 (uncodified) is amended to read as follows:

**FOR THE MUNICIPAL RESEARCH COUNCIL**

County Research Services Account—State Appropriation. . . . .	\$787,000
City and Town Research Services Account—State	
Appropriation . . . . .	\$4,134,000
<b><u>Special Purpose District Research Services</u></b>	
Account—State Appropriation . . . . .	\$300,000
TOTAL APPROPRIATION. . . . .	(\$4,921,000)
	<u>\$5,221,000</u>

**The appropriations in this section are subject to the following conditions and limitations: \$300,000 of the special purpose district research services account appropriation for fiscal year 2007 is provided solely for the**

implementation of Substitute Senate Bill No. 6555 (special purpose districts).  
If Substitute Senate Bill No. 6555 is not enacted by June 30, 2006, the amount  
provided in this subsection shall lapse.

\*Sec. 139 was vetoed. See message at end of chapter.

**Sec. 140.** 2005 c 518 s 141 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

OMWBE Enterprises Account—State Appropriation . . . . .((~~\$3,186,000~~)  
\$3,196,000

The appropriation in this section is subject to the following conditions and limitations: \$180,000 of the OMWBE enterprises account appropriation is provided solely for management of private sector grants and coordination of support services to small businesses in the state. It is the intent of the legislature that this amount be funded from new grant revenues and business fees.

**Sec. 141.** 2005 c 518 s 142 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

General Fund—State Appropriation (FY 2006) . . . . . \$321,000  
General Fund—State Appropriation (FY 2007) . . . . . ((~~\$233,000~~)

\$359,000

General Fund—Federal Appropriation . . . . . ((~~\$3,640,000~~)  
\$3,641,000

General Administration Service Account—State  
Appropriation . . . . . ((~~\$32,045,000~~)  
\$32,163,000

Pension Funding Stabilization Account Appropriation . . . . . \$1,000

TOTAL APPROPRIATION . . . . . ((~~\$36,239,000~~)  
\$36,485,000

The appropriations in this section are subject to the following conditions and limitations: \$75,000 of the general fund—state appropriation for fiscal year 2006 (~~is~~) and \$125,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of House Bill No. 1830 (alternative public works). If Engrossed Substitute House Bill No. 1830 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

**Sec. 142.** 2005 c 518 s 143 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

General Fund—State Appropriation (FY 2007) . . . . . \$1,500,000  
General Fund—Federal Appropriation . . . . . \$350,000

Data Processing Revolving Account—State  
Appropriation . . . . . ((~~\$3,612,000~~)  
\$3,621,000

Public Safety and Education Account—State  
Appropriation . . . . . \$684,000

TOTAL APPROPRIATION . . . . . ((~~\$4,296,000~~)  
\$6,155,000

The appropriations in this section are subject to the following conditions and limitations: \$1,500,000 of the general fund—state appropriation for fiscal

year 2007 is provided solely to support the operations of the digital learning commons. By September 1, 2006, the digital learning commons shall develop and implement a plan to become a self-supporting operation. The plan implemented shall allow for the digital learning commons to be entirely supported by user fees and private contributions by September 1, 2008.

**Sec. 143.** 2005 c 518 s 144 (uncodified) is amended to read as follows:

**FOR THE INSURANCE COMMISSIONER**

General Fund—Federal Appropriation . . . . .	(\$673,000)
	<u>\$1,513,000</u>
Insurance Commissioners Regulatory Account—State	
Appropriation . . . . .	(\$40,253,000)
	<u>\$41,587,000</u>
TOTAL APPROPRIATION . . . . .	(\$40,926,000)
	<u>\$43,100,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$42,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement Substitute House Bill No. 2553 (service contracts). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(2) \$685,000 of the insurance commissioners regulatory account appropriation is provided solely to implement Substitute Senate Bill No. 6234 (antifraud unit). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**Sec. 144.** 2005 c 518 s 145 (uncodified) is amended to read as follows:

**FOR THE BOARD OF ACCOUNTANCY**

Certified Public Accountants' Account—State	
Appropriation . . . . .	(\$1,962,000)
	<u>\$2,236,000</u>

**Sec. 145.** 2005 c 518 s 146 (uncodified) is amended to read as follows:

**FOR THE FORENSIC INVESTIGATION COUNCIL**

Death Investigations Account—State Appropriation . . . . .	(\$282,000)
	<u>\$283,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$250,000 of the death investigation account appropriation is provided solely for providing financial assistance to local jurisdictions in multiple death investigations. The forensic investigation council shall develop criteria for awarding these funds for multiple death investigations involving an unanticipated, extraordinary, and catastrophic event or those involving multiple jurisdictions.

**Sec. 146.** 2005 c 518 s 147 (uncodified) is amended to read as follows:

**FOR THE HORSE RACING COMMISSION**

Horse Racing Commission Operating Account—State	
Appropriation . . . . .	(\$5,009,000)
	<u>\$5,027,000</u>

Sec. 147. 2005 c 518 s 148 (uncodified) is amended to read as follows:

**FOR THE LIQUOR CONTROL BOARD**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,739,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$1,706,000)</del>
	<u>\$1,720,000</u>
Liquor Control Board Construction and Maintenance	
Account—State Appropriation . . . . .	\$12,832,000
Liquor Revolving Account—State Appropriation . . . . .	<del>(\$154,080,000)</del>
	<u>\$159,863,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$7,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$170,357,000)</del>
	<u>\$176,161,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) As authorized under RCW 66.16.010, the liquor control board shall add an equivalent surcharge of \$0.42 per liter on all retail sales of spirits, excluding licensee, military and tribal sales, effective no later than July 1, 2005. The intent of this surcharge is to generate additional revenues for the state general fund in the 2005-07 biennium.

(2) \$154,000 of the liquor revolving account—state appropriation is provided solely for the lease of state vehicles from the department of general administration's motor pool.

(3) \$2,228,000 of the liquor revolving account—state appropriation is provided solely for costs associated with the installation of a wide area network that connects all of the state liquor stores and the liquor control board headquarters.

(4) \$186,000 of the liquor revolving account—state appropriation is provided solely for an alcohol education staff coordinator and associated alcohol educational resources targeted toward middle school and high school students.

(5) \$2,261,000 of the liquor revolving account—state appropriation is provided solely for replacement of essential computer equipment, improvement of security measures, and improvement to the core information technology infrastructure.

(6) \$2,800,000 of the liquor control board construction and maintenance account—state appropriation is provided solely for the certificate of participation to fund the expansion of the liquor distribution center.

(7) \$3,233,000 of the liquor revolving account—state appropriation is provided solely for upgrades to material handling system and warehouse management system software and equipment, and associated staff to increase the liquor distribution center's shipping capacity.

(8) \$2,746,000 of the liquor revolving account—state appropriation is provided solely for additional state liquor store and retail business analysis staff. The additional liquor store staff will be deployed to those stores with the greatest potential for increased customer satisfaction and revenue growth. The liquor control board, using the new retail business analysis staff and, if needed, an independent consultant, will analyze the impact of additional staff on customer satisfaction and revenue growth and make recommendations that will increase the effectiveness and efficiency of all the liquor control board's retail-related

activities. Using best practices and benchmarks from comparable retail organizations, the analysis will evaluate and make recommendations, at a minimum, on the following issues: Optimal staffing levels and store locations and numbers of stores (both state liquor stores and contract liquor stores); options for an improved retail organizational structure; strategies to increase the retail decision-making capacity; and resources required for enhanced internal organizational support of the retail activities. In support of this evaluation, a survey shall be employed to gauge customer satisfaction with state and contract liquor store services. A written evaluation with recommendations shall be submitted to the governor and the legislative fiscal committees by October 1, 2006.

(9) \$187,000 of the general fund—state appropriation for fiscal year 2006 and \$122,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Senate Bill No. 6097 (tobacco products enforcement). If Senate Bill No. 6097 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(10) \$1,435,000 of the liquor revolving account—state appropriation is provided solely for the implementation of Substitute House Bill No. 1379 (liquor retail plan). If Substitute House Bill No. 1379 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(11) \$1,864,000 of the liquor revolving account—state appropriation is provided solely for the implementation of Second Substitute Senate Bill No. 6823 (distribution of beer and wine). If Second Substitute Senate Bill No. 6823 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(12) \$575,000 of the liquor revolving account—state appropriation is provided solely for the implementation of Engrossed Senate Bill No. 6537 (direct wine sales). If Engrossed Senate Bill No. 6537 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

Sec. 148. 2005 c 518 s 149 (uncodified) is amended to read as follows:

**FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Public Service Revolving Account—State

Appropriation . . . . .	(\$28,436,000)	
		<u>\$28,707,000</u>
Pipeline Safety Account—State Appropriation . . . . .	(\$2,877,000)	
		<u>\$2,894,000</u>
Pipeline Safety Account—Federal Appropriation . . . . .	(\$1,535,000)	
		<u>\$1,539,000</u>
TOTAL APPROPRIATION . . . . .	(\$32,848,000)	
		<u>\$33,140,000</u>

Sec. 149. 2005 c 518 s 150 (uncodified) is amended to read as follows:

**FOR THE BOARD FOR VOLUNTEER FIREFIGHTERS**

Volunteer Firefighters' and Reserve Officers'

Administrative Account—State Appropriation . . . . .	(\$768,000)	
		<u>\$980,000</u>

Sec. 150. 2005 c 518 s 151 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund—State Appropriation (FY 2006) . . . . .	(\$10,084,000)
	<u>\$10,137,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$9,362,000)
	<u>\$15,037,000</u>
General Fund—Federal Appropriation . . . . .	(\$165,970,000)
	<u>\$214,322,000</u>
General Fund—Private/Local Appropriation . . . . .	\$2,000
Enhanced 911 Account—State Appropriation . . . . .	(\$34,766,000)
	<u>\$34,812,000</u>
Disaster Response Account—State Appropriation . . . . .	(\$2,277,000)
	<u>\$1,664,000</u>
Disaster Response Account—Federal Appropriation . . . . .	(\$11,008,000)
	<u>\$6,297,000</u>
Worker and Community Right-to-Know Account—State Appropriation . . . . .	(\$314,000)
	<u>\$315,000</u>
Nisqually Earthquake Account—State Appropriation . . . . .	(\$6,713,000)
	<u>\$6,531,000</u>
Nisqually Earthquake Account—Federal Appropriation . . . . .	(\$29,127,000)
	<u>\$27,075,000</u>
Military Department Rental and Lease Account—State Appropriation . . . . .	\$378,000
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$44,000</u>
TOTAL APPROPRIATION . . . . .	(\$270,001,000)
	<u>\$316,614,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) (~~(\$2,277,000)~~) \$1,664,000 of the disaster response account—state appropriation and (~~(\$11,008,000)~~) \$6,297,000 of the disaster response account—federal appropriation may be spent only on disasters declared by the governor and with the approval of the office of financial management. The military department shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2005-07 biennium based on current revenue and expenditure patterns.

(2) (~~(\$6,713,000)~~) \$6,531,000 of the Nisqually earthquake account—state appropriation and (~~(\$29,127,000)~~) \$27,075,000 of the Nisqually earthquake account—federal appropriation are provided solely for response and recovery costs associated with the February 28, 2001, earthquake. The military department shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing earthquake recovery costs, including: (a) Estimates of total costs; (b) incremental changes from the previous estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (e) estimates of future payments by biennium. This information shall be displayed by fund, by type of assistance, and by amount paid on behalf of state agencies or local organizations. The military department shall also

submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the Nisqually earthquake account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2005-07 biennium based on current revenue and expenditure patterns.

(3) (~~(\$127,586,000)~~) \$173,613,000 of the general fund—federal appropriation is provided solely for homeland security, subject to the following conditions:

(a) Any communications equipment purchased by local jurisdictions or state agencies shall be consistent with standards set by the Washington state interoperability executive committee;

(b) This amount shall not be allotted until a spending plan is reviewed by the governor's domestic security advisory group and approved by the office of financial management;

(c) The department shall submit a quarterly report to the office of financial management and the legislative fiscal committees detailing the governor's domestic security advisory group recommendations; homeland security revenues and expenditures, including estimates of total federal funding for the state; incremental changes from the previous estimate, planned and actual homeland security expenditures by the state and local governments with this federal funding; and matching or accompanying state or local expenditures; and

(d) The department shall submit a report by December 1st of each year to the office of financial management and the legislative fiscal committees detailing homeland security revenues and expenditures for the previous fiscal year by county and legislative district.

(4) \$867,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the Cowlitz county 911 communications center for the purpose of purchasing or reimbursing the purchase of interoperable radio communication technology to improve disaster response in the Mount St. Helens area.

(5) No funds from sources other than fees from voice over internet protocol (VOIP) providers may be used to implement technologies specific to the integration of VOIP 911 with E-911. The military department, in conjunction with the department of revenue, shall propose methods for assuring the collection of an appropriate enhanced 911 excise tax from VOIP 911 providers and shall report their recommendations to the legislature by November 1, 2005.

(6) \$41,000 of the enhanced 911 account appropriation is provided solely to implement Substitute House Bill No. 2543 (911 advisory committee). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(7)(a) \$400,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the military department for administration of competitive grants detailed in (b) of this subsection and for implementation of one or more of the following activities regarding emergency management: Development and coordination of comprehensive emergency management plans; training of elected and appointed officials on state laws, disaster command and response structures, and the roles and responsibilities of officials before, during, and after a disaster; and administrating periodic joint emergency management training



exercises involving the military department and other state agencies. In addition, the military department will study the feasibility of having regional disaster medical assistance teams and urban search and rescue teams available within the state to be deployed by the governor. The military department will report the findings and recommendations to the legislature by December 1, 2006.

(b) \$1,600,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the military department to allocate grants to regional agencies, local governments, tribal governments, regional incident management teams, and private organizations. The grants shall be for one or more of the following purposes and distributed on a competitive basis: Development and coordination of comprehensive emergency management plans; training of elected and appointed officials on state laws, ordinances, disaster command and response structures, and the roles and responsibilities of officials before, during, and after a disaster; administration of periodic joint emergency management training exercises; and implementation of projects that will strengthen emergency response, mitigation, preparation, and coordination.

(8)(a) \$150,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the military department to: (i) Initiate a health registry for veterans and military personnel returning from Afghanistan, Iraq, or other countries in which depleted uranium or other hazardous materials may be found; (ii) develop a plan for outreach to and follow-up of military personnel; (iii) prepare a report for service members concerning potential exposure to depleted uranium and other toxic chemical substances and the precautions recommended under combat and noncombat conditions while in a combat zone; (iv) submit a report by October 1, 2006, to the joint veterans and military affairs committee on the scope and adequacy of training received by members of the Washington national guard on detecting whether their service as eligible members is likely to entail, or to have entailed, exposure to depleted uranium, including an assessment of the feasibility and cost of adding predeployment training concerning potential exposure to depleted uranium and other toxic chemical substances; and (v) study the health effects of hazardous materials exposure including, but not limited to, depleted uranium, as they relate to military service and submit a report and recommendations to the joint veterans and military affairs committee.

(b) By January 31, 2007, the joint veterans and military affairs committee shall submit its recommendations, if any, to the appropriate committees of the legislature.

**Sec. 151.** 2005 c 518 s 152 (uncodified) is amended to read as follows:

**FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION**

General Fund—State Appropriation (FY 2006) . . . . .	(\$2,776,000)
	\$2,808,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$2,824,000)
	\$2,890,000
Department of Personnel Service Account—State	
Appropriation . . . . .	(\$2,945,000)
	\$2,953,000
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$16,000</u>
TOTAL APPROPRIATION . . . . .	(\$8,545,000)

\$8,667,000

The appropriations in this section are subject to the following conditions and limitations: \$32,000 of the general fund—state appropriation in fiscal year 2006 and \$60,000 of the general fund—state appropriation in fiscal year 2007 are provided solely for costs pursuant to Engrossed Second Substitute House Bill No. 2353 (family child care providers). If the bill is not enacted by June 30, 2006, the amount provided for this purpose shall lapse.

Sec. 152. 2005 c 518 s 153 (uncodified) is amended to read as follows:

**FOR THE GROWTH ((PLANNING)) MANAGEMENT HEARINGS BOARD**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,571,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$1,587,000)</del>
	<u>\$1,590,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$8,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$3,158,000)</del>
	<u>\$3,169,000</u>

The appropriations in this section are subject to the following conditions and limitations: ~~(( \$9,000 of the general fund—state appropriation for fiscal year 2006 and \$9,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the Western Board to relocate. If the Western Board does not relocate by June 30, 2006, the amounts provided in this subsection shall lapse.))~~

Sec. 153. 2005 c 518 s 154 (uncodified) is amended to read as follows:

**FOR THE STATE CONVENTION AND TRADE CENTER**

State Convention and Trade Center Account—State Appropriation . . . . .	\$30,512,000
State Convention and Trade Center Operating Account—State Appropriation . . . . .	<del>(\$46,470,000)</del>
	<u>\$46,491,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$76,982,000)</del>
	<u>\$77,003,000</u>

Sec. 154. 2005 c 518 s 155 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$550,000)</del>
	<u>\$745,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$549,000)</del>
	<u>\$728,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$1,446,000)</del>
	<u>\$1,037,000</u>
General Fund—Private/Local Appropriation . . . . .	\$14,000
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$3,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$2,559,000)</del>
	<u>\$2,527,000</u>

**PART II  
HUMAN SERVICES**

**Sec. 201.** 2005 c 518 s 201 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES.**

(1) Appropriations made in this act to the department of social and health services shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose.

(2) The department of social and health services shall not initiate any services that require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3)(a) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act. However, after May 1, 2006, unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2006 among programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose except as expressly provided in (b) of this subsection.

(b) To the extent that transfers under (a) of this subsection are insufficient to fund actual expenditures in excess of fiscal year 2006 caseload forecasts and utilization assumptions in the medical assistance, long-term care, foster care, adoption support, and child support programs, the department may transfer state moneys that are provided solely for a specified purpose, other than family support appropriations for the developmental disabilities program in section 205(1)(e) of this act and family reconciliation services appropriations for the children and family services program in section 202(20) of this act, after approval by the director of financial management.

(c) The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any allotment modifications or transfers under this subsection. The written notification shall include a narrative explanation and justification of the changes, along with

expenditures and allotments by budget unit and appropriation, both before and after any allotment modifications or transfers.

(4) The department is authorized to expend up to \$4,700,000 of its general fund—state appropriation for fiscal year 2007 for any reductions in federal funding in fiscal year 2006 for targeted case management services for children who are in the care of the state. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any allotment modifications under this subsection.

(5) The department is authorized to develop an integrated health care program designed to slow the progression of illness and disability and better manage Medicaid expenditures for the aged and disabled population. Under this Washington medicaid integration partnership (WMIP) the department may combine and transfer such Medicaid funds appropriated under sections 204, 206, 208, and 209 of this act as may be necessary to finance a unified health care plan for the WMIP program enrollment. The WMIP pilot projects shall not exceed a daily enrollment of 6,000 persons during the 2005-2007 biennium. The amount of funding assigned to the pilot projects from each program may not exceed the average per capita cost assumed in this act for individuals covered by that program, actuarially adjusted for the health condition of persons enrolled in the pilot, times the number of clients enrolled in the pilot. In implementing the WMIP pilot projects, the department may: (a) Withhold from calculations of "available resources" as set forth in RCW 71.24.025 a sum equal to the capitated rate for individuals enrolled in the pilots; and (b) employ capitation financing and risk-sharing arrangements in collaboration with health care service contractors licensed by the office of the insurance commissioner and qualified to participate in both the medicaid and medicare programs. The department shall conduct an evaluation of the WMIP, measuring changes in participant health outcomes, changes in patterns of service utilization, participant satisfaction, participant access to services, and the state fiscal impact.

~~((4))~~ (6) In accordance with RCW 74.39A.300, the appropriations to the department of social and health services in this act are sufficient to implement the compensation and fringe benefits of the collective bargaining agreement reached between the governor and the exclusive bargaining representative of individual providers of home care services.

Sec. 202. 2005 c 518 s 202 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
CHILDREN AND FAMILY SERVICES PROGRAM**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$251,005,000)</del>
	<u>\$257,266,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$266,350,000)</del>
	<u>\$287,602,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$421,401,000)</del>
	<u>\$433,829,000</u>
General Fund—Private/Local Appropriation . . . . .	\$400,000
<u>Domestic Violence Prevention Account—State</u>	
<u>Appropriation</u> . . . . .	<u>\$1,345,000</u>
Public Safety and Education Account—State	

Appropriation. . . . .	(\$10,754,000)
	<u>\$6,405,000</u>
Violence Reduction and Drug Enforcement Account—State	
Appropriation. . . . .	(\$1,510,000)
	<u>\$5,860,000</u>
<u>Pension Funding Stabilization Account—State</u>	
Appropriation. . . . .	\$699,000
TOTAL APPROPRIATION . . . . .	(\$951,420,000)
	<u>\$993,406,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,271,000 of the general fund—state appropriation for fiscal year 2006, \$2,271,000 of the general fund—state appropriation for fiscal year 2007, and \$1,584,000 of the general fund—federal appropriation are provided solely for the category of services titled "intensive family preservation services."

(2) \$701,000 of the general fund—state appropriation for fiscal year 2006 and \$701,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to thirteen children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(3) \$375,000 of the general fund—state appropriation for fiscal year 2006, \$375,000 of the general fund—state appropriation for fiscal year 2007, and \$322,000 of the general fund—federal appropriation are provided solely for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(4) \$125,000 of the general fund—state appropriation for fiscal year ~~(2004)~~ 2006 and \$125,000 of the general fund—state appropriation for fiscal year ~~(2005)~~ 2007 are provided solely for a foster parent retention program. This program is directed at foster parents caring for children who act out sexually.

(5) The providers for the 31 HOPE beds shall be paid a \$1,000 base payment per bed per month, and reimbursed for the remainder of the bed cost only when the beds are occupied.

(6) Within amounts provided for the foster care and adoption support programs, the department shall control reimbursement decisions for foster care

and adoption support cases such that the aggregate average cost per case for foster care and for adoption support does not exceed the amounts assumed in the projected caseload expenditures. The department shall adjust adoption support benefits to account for the availability of the new federal adoption support tax credit for special needs children. The department shall report annually by October 1st to the appropriate committees of the legislature on the specific efforts taken to contain costs.

(7) (~~(\$3,837,000)~~) \$4,661,000 of the general fund—state appropriation for fiscal year 2006, (~~(\$6,352,000)~~) \$12,666,000 of the general fund—state appropriation for fiscal year 2007, and (~~(\$4,370,000)~~) \$7,443,000 of the general fund—federal appropriation are provided solely for reforms to the child protective services and child welfare services programs, including (~~(30-day)~~) improvement in achieving face-to-face contact for children (~~(in out-of-home care)~~) every 30 days, improved timeliness of child protective services investigations, (~~(an enhanced in-home child welfare services program,)~~) and education specialist services. The department shall report by December 1st of each year on the implementation status of the enhancements, including the hiring of new staff, and the outcomes of the reform efforts. The information provided shall include a progress report on items in the child and family services review program improvement plan and areas identified for improvement in the Braam lawsuit settlement.

(8) Within amounts appropriated in this section, priority shall be given to proven intervention models, including evidence-based prevention and early intervention programs identified by the Washington institute for public policy and the department. The department shall include information on the number, type, and outcomes of the evidence-based programs being implemented in its reports on child welfare reform efforts.

(9) \$177,000 of the general fund—state appropriation for fiscal year 2006 and (~~(\$178,000)~~) \$228,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the state association of children's advocacy centers. Funds may be used for (a) children's advocacy centers that meet the national children's alliance accreditation standards for full membership, and are members in good standing; (b) communities in the process of establishing a center; and (c) the state association of children's advocacy centers. A 50 percent match will be required of each center receiving state funding.

(10) \$50,000 of the general fund—state appropriation for fiscal year 2006 and \$50,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for a street youth program in Spokane.

(11) \$4,672,000 of the general fund—state appropriation for fiscal year 2006 and \$4,672,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for secure crisis residential centers.

(12) \$572,000 of the general fund—state appropriation for fiscal year 2006 (~~(, \$572,000)~~) and \$1,144,000 of the general fund—state appropriation for fiscal year 2007 (~~(, and \$1,144,000 of the general fund—federal appropriation)~~) are provided solely for section 305 of Senate Bill No. 5763 (mental disorders treatment) for chemical dependency specialist services.

(13) \$3,500,000 of the general fund—state appropriation for fiscal year 2007 and \$1,500,000 of the general fund—federal appropriation are provided

solely for Engrossed Senate Bill No. 5922 (child neglect). If the bill is not enacted by June 30, 2005, these amounts shall lapse.

(14) \$1,345,000 of the domestic violence prevention account appropriation is provided solely for the implementation of chapter 374, Laws of 2005.

(15) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the supervised visitation and safe exchange center in Kent. The department shall not retain any portion for administrative purposes.

(16) \$450,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Second Substitute House Bill No. 2002 (foster care support services). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(17) \$521,000 of the general fund—state appropriation for fiscal year 2007 and \$223,000 of the general fund—federal appropriation are provided solely for a statewide foster parent recruitment and retention program pursuant to Second Substitute House Bill No. 3115 (foster care critical support). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

(18) The department shall evaluate integrating a family assessment component into its practice model for working with lower risk families involved with child protective services. The department shall report its findings to the joint task force on child safety for children in child protective services or child welfare services by July 1, 2007.

(19) \$3,700,000 of the general fund—state appropriation for fiscal year 2006, \$3,700,000 of the general fund—state appropriation for fiscal year 2007, and \$6,200,000 of the general fund—federal appropriation are provided solely for the medicaid treatment child care (MTCC) program. The department shall contract for MTCC services. In addition to referrals made by children's administration case workers, the department shall authorize children referred to the MTCC program by local public health nurses and case workers from the temporary assistance for needy families (TANF) program, as long as the children meet the eligibility requirements as outlined in the Washington state plan for the MTCC program. Starting in June 2006, the department shall report quarterly to the appropriate policy committees of the legislature on the MTCC program and include monthly statewide and regional information on: (a) The number of referrals; (b) the number of authorized referrals and child enrollments; and (c) program expenditure levels.

(20) \$540,000 of the general fund—state appropriation for fiscal year 2006, \$540,000 of the general fund—state appropriation for fiscal year 2007, and \$2,476,000 of the general fund—federal appropriation are provided solely for the category of services titled "family reconciliation services."

(21) \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for continuum of care in Region I.

**Sec. 203.** 2005 c 518 s 203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
JUVENILE REHABILITATION PROGRAM**

General Fund—State Appropriation (FY 2006) . . . . .	(\$78,552,000)
	\$79,031,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$81,760,000)
	\$80,615,000

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General Fund—Federal Appropriation . . . . .	(\$5,998,000)
	<u>\$5,668,000</u>
General Fund—Private/Local Appropriation . . . . .	\$1,098,000
Violence Reduction and Drug Enforcement Account—State	
Appropriation. . . . .	\$38,385,000
Juvenile Accountability Incentive Account—Federal	
Appropriation. . . . .	(\$5,621,000)
	<u>\$5,516,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation. . . . .</u>	<u>\$449,000</u>
TOTAL APPROPRIATION . . . . .	(\$211,414,000)
	<u>\$210,762,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$706,000 of the violence reduction and drug enforcement account appropriation is provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

(2) \$6,156,000 of the violence reduction and drug enforcement account appropriation is provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

(3) \$1,020,000 of the general fund—state appropriation for fiscal year 2006, \$1,030,000 of the general fund—state appropriation for fiscal year 2007, and \$5,345,000 of the violence reduction and drug enforcement account appropriation are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

(4) \$2,997,000 of the violence reduction and drug enforcement account appropriation is provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

(5) For the purposes of a pilot project, the juvenile rehabilitation administration shall provide a block grant, rather than categorical funding, for consolidated juvenile services, community juvenile accountability act grants, the chemically dependent disposition alternative, and the special sex offender disposition alternative to the Pierce county juvenile court. To evaluate the effect



of decategorizing funding for youth services, the juvenile court shall do the following:

(a) Develop intermediate client outcomes according to the risk assessment tool (RAT) currently used by juvenile courts and in coordination with the juvenile rehabilitation administration;

(b) Track the number of youth participating in each type of service, intermediate outcomes, and the incidence of recidivism within twenty-four months of completion of services;

(c) Track similar data as in (b) of this subsection with an appropriate comparison group, selected in coordination with the juvenile rehabilitation administration and the family policy council;

(d) Document the process for managing block grant funds on a quarterly basis, and provide this report to the juvenile rehabilitation administration and the family policy council; and

(e) Provide a process evaluation to the juvenile rehabilitation administration and the family policy council by June 20, 2006, and a concluding report by June 30, 2007. The court shall develop this evaluation in consultation with the juvenile rehabilitation administration, the family policy council, and the Washington state institute for public policy.

(6) \$319,000 of the general fund—state appropriation for fiscal year 2006 and \$678,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to establish a reinvesting in youth pilot program. Participation shall be limited to three counties or groups of counties, including one charter county with a population of over eight hundred thousand residents and at least one county or group of counties with a combined population of three hundred thousand residents or less.

(a) Only the following intervention service models shall be funded under the pilot program: (i) Functional family therapy; (ii) multi-systemic therapy; and (iii) aggression replacement training.

(b) Subject to (c) of this subsection, payments to counties in the pilot program shall be sixty-nine percent of the average service model cost per youth times the number of youth engaged by the selected service model. For the purposes of calculating the average service model cost per engaged youth for a county, the following costs will be included: Staff salaries, staff benefits, training, fees, quality assurance, and local expenditures on administration.

(c) Distribution of moneys to the charter county with a population of over eight hundred thousand residents shall be based upon the number of youth that are engaged by the intervention service models, up to six hundred thousand dollars for the biennium. The department may distribute the remaining grant moneys to the other counties selected to participate in the pilot program.

(d) The department shall provide recommendations to the legislature by June 30, 2006, regarding a cost savings calculation methodology, a funds distribution formula, and criteria for service model eligibility for use if the reinvesting in youth program is continued in future biennia.

~~((e) \$248,000 of the general fund—state appropriation for fiscal year 2006 and \$496,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to reimburse counties for local juvenile disposition alternatives implemented pursuant to House Bill No. 2073 (juvenile sentencing) and Senate Bill No. 5719 (community commitment). The juvenile rehabilitation~~

administration, in consultation with the juvenile court administrators, shall develop an equitable distribution formula for the funding provided in this subsection, and negotiate contracts that would avoid the cost of a youth kept in the community costing more than serving the youth in a juvenile rehabilitation institution and parole program on an average daily population basis. The juvenile rehabilitation administration may adjust the funding level provided in this subsection in the event that utilization rates of the disposition alternatives are lower than the level anticipated by the total appropriation to the juvenile rehabilitation administration in this section. The juvenile rehabilitation administration shall report to the appropriate policy and fiscal committees of the legislature on the use of the disposition alternatives and revocations by December 1, 2006. If either bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.)

\*Sec. 204. 2005 c 518 s 204 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
MENTAL HEALTH PROGRAM**

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$261,430,000)</del>
	\$260,292,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$269,285,000)</del>
	\$283,039,000
General Fund—Federal Appropriation . . . . .	<del>(\$336,771,000)</del>
	\$344,331,000
General Fund—Private/Local Appropriation . . . . .	\$1,970,000
TOTAL APPROPRIATION . . . . .	<del>(\$869,456,000)</del>
	\$889,632,000

The appropriations in this subsection are subject to the following conditions and limitations:

~~((b))~~ (a) \$103,400,000 of the general fund—state appropriation for fiscal year 2006 ~~((and \$103,400,000 of the general fund—state appropriation for fiscal year 2007 are))~~ is provided solely for persons and services not covered by the medicaid program. The department shall distribute ~~((these amounts))~~ this amount among the regional support networks according to a formula that, consistent with RCW 71.24.035(13), assures continuation of fiscal year 2003 levels of nonmedicaid service in each regional support network area for the following service categories in the following priority order: (i) Crisis and commitment services; (ii) community inpatient services; and (iii) residential care services, including personal care and emergency housing assistance. The formula shall also ensure that each regional support network's combined state and federal allocation is no less than the amount it was due under the fiscal year 2005 allocation methodology. The remaining amounts shall be distributed based upon a formula that incorporates each regional support network's percentage of the state's population. ~~((In consultation with regional support networks and other interested groups, the department shall report to the joint legislative and executive task force by September 2006 on options for modifying the allocation formula to assure equitable statewide access to essential nonmedicaid services.~~

~~(e))~~ (b) \$100,959,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for persons and services not covered by the medicaid program. Consistent with RCW 71.24.035(13), these funds shall be distributed proportional to each regional support network's percentage of the total state population.

(c) \$10,882,000 of the general fund—state appropriation for fiscal year 2007 and \$10,922,000 of the general fund—federal appropriation are provided solely to increase medicaid capitation rates (i) by three and one-half percent, for regional support networks whose fiscal year 2006 capitation rates are above the statewide population-weighted average; and (ii) to the statewide population-weighted average, for regional support networks whose fiscal year 2006 capitation rates are below that level. Regional support networks may elect to receive all or a portion of the general fund—state share of the funding for which they qualify under this subsection (1)(c) as an increase in nonmedicaid rather than medicaid funding. Regional support networks choosing to obtain funding in this way must notify the department of their decision no later than June 1, 2006.

(d) \$359,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to ensure that no regional support network's combined state and federal allocation is less than the amount it was due under the fiscal year 2006 allocation methodology.

(e) \$750,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for grants to hospitals that are unable to receive disproportionate share hospital funding due to the federal funding restrictions on "institutions for mental disease." These funds shall be allocated among eligible hospitals proportional to the amount the hospital would have received from the disproportionate share hospital grants funded under section 209 of this 2006 act if the federal funding restriction were not in effect.

(f) \$85,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for a contract with the national alliance for the mentally ill of greater Seattle to assist people who are recovering from a major mental illness to participate in development of a group residence for women.

(g) \$2,825,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to refund to regional support networks fifty percent of the "liquidated damages" amount that was withheld from payments to the regional support network during fiscal years 2002 through 2005 because the regional support network used more than its allocated number of state hospital days of care. The payments directed in this subsection (1)(g) are contingent upon agreement by the regional support network that the funds shall be used only for mental health services. The payments directed in this subsection do not apply to regional support networks to which such refunds have been directed by court order prior to the effective date of this 2006 act.

(h) The department shall refund to the regional support networks 100 percent of the "liquidated damages" that have been withheld from payments to the regional support network during fiscal year 2006 for periods prior to the effective date of this act. The payments directed in this subsection (1)(h) do not apply to regional support networks to which such refunds have been directed by court order prior to the effective date of this act.

(i) \$3,238,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the department and regional support networks to contract for development and initial implementation of high-intensity program for active community treatment (PACT) teams, and other proven program approaches which the department concurs will enable the regional support network to achieve significant reductions during fiscal year 2008 and thereafter in the number of beds the regional support network would otherwise need to use at the state hospitals.

(j) The number of nonforensic beds allocated for use by regional support networks at eastern state hospital shall average 222 per day throughout fiscal year 2007. The number of nonforensic beds allocated for use by regional support networks at western state hospital shall average 727 during the first quarter of fiscal year 2007, 757 during the second quarter of fiscal year 2007, and 777 during the third and fourth quarters of fiscal year 2007. During fiscal year 2007, the department shall not separately charge regional support networks for use of state hospital beds for short-term commitments, or for persons served in the program for adaptive living skills (PALS), but the days of care provided for such commitments and in the PALS program shall count against the regional support network's state hospital allocation. The legislature intends to authorize separate charges for the PALS program beginning in January 2008.

(k) From the general fund—state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and disability services administration for the general fund—state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

~~((d))~~ (l) Within amounts appropriated in this subsection, the department shall contract with the Clark county regional support network for development and operation of a project demonstrating collaborative methods for providing intensive mental health services in the school setting for severely emotionally disturbed children who are medicaid eligible. Project services shall be delivered by teachers and teaching assistants who qualify as, or who are under the supervision of, mental health professionals meeting the requirements of chapter 275-57 WAC. The department shall increase medicaid payments to the regional support network by the amount necessary to cover the necessary and allowable costs of the demonstration, not to exceed the upper payment limit specified for the regional support network in the department's medicaid waiver agreement with the federal government after meeting all other medicaid spending requirements assumed in this subsection. The regional support network shall provide the required nonfederal share of the increased medicaid payment provided for operation of this project.

~~((e))~~ (m) \$3,100,000 of the general fund—state appropriation for fiscal year 2006 and \$3,375,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to establish a base community psychiatric hospitalization payment rate. The base payment rate shall be \$400 per indigent patient day at hospitals that accept commitments under the involuntary treatment act, and \$550 per medicaid patient day at free-standing psychiatric hospitals that accept commitments under the involuntary treatment act. The department shall allocate these funds among the regional support networks to reflect projected expenditures at the enhanced payment level by hospital and region.

~~((f))~~ (n) At least \$902,000 of the federal block grant funding appropriated in this subsection shall be used for the continued operation of the mentally ill offender pilot program.

~~((g))~~ ~~\$2,146,000 of the general fund—state appropriation for fiscal year 2006, \$4,408,000 of the general fund—state appropriation for fiscal year 2007, and \$4,559,000 of the general fund—federal appropriation are provided solely for a vendor rate increase to regional support networks for medicaid and nonmedicaid services, to the extent that: Amounts provided in this subsection (1) to serve medicaid clients through regional support networks are sufficient to ensure compliance with federally approved actuarially sound medicaid rate ranges in every rate category. If such amounts are not sufficient to ensure compliance, funds provided in this subsection (1)(g) shall first be applied to address any noncompliant rate category; remaining amounts shall be allocated among the regional support networks by applying a uniform percentage of increase across regional support networks.~~

~~((h))~~ (o) \$5,000,000 of the general fund—state appropriation for fiscal year 2006 and \$5,000,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for mental health services for mentally ill offenders while confined in a county or city jail and for facilitating access to programs that offer mental health services upon mentally ill offenders' release from confinement. These amounts shall supplement, and not supplant, local or other funding or in-kind resources currently being used for these purposes. The department is authorized to transfer such amounts as are necessary, which are not to exceed \$418,000 of the general fund—state appropriation for fiscal year 2006 and \$418,000 of the general fund—state appropriation for fiscal year 2007, to the economic services program for the purposes of implementing section 12 of Engrossed Second Substitute House Bill No. 1290 (community mental health) related to reinstating and facilitating access to mental health services upon mentally ill offenders' release from confinement.

~~((i))~~ (p) \$1,500,000 of the general fund—state appropriation for fiscal year 2006 and \$1,500,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for grants for innovative mental health service delivery projects. Such projects may include, but are not limited to, clubhouse programs and projects for integrated health care and behavioral health services for general assistance recipients. These amounts shall supplement, and not supplant, local or other funding currently being used for activities funded under the projects authorized in this subsection.

~~((j))~~ (q) The department is authorized to continue to expend federal block grant funds, and special purpose federal grants, through direct contracts, rather than through contracts with regional support networks; and to distribute such funds through a formula other than the one established pursuant to RCW 71.24.035(13).

~~((k))~~ (r) The department is authorized to continue to contract directly, rather than through contracts with regional support networks, for children's long-term inpatient facility services.

~~((l))~~ (s) \$2,250,000 of the general fund—state appropriation for fiscal year 2006, \$2,250,000 of the general fund—state appropriation for fiscal year 2007, and \$4,500,000 of the general fund—federal appropriation are provided solely for the continued operation of community residential and support services for

persons who are older adults or who have co-occurring medical and behavioral disorders and who have been discharged or diverted from a state psychiatric hospital. These funds shall be used to serve individuals whose treatment needs constitute substantial barriers to community placement, who no longer require active psychiatric treatment at an inpatient hospital level of care, and who no longer meet the criteria for inpatient involuntary commitment. Coordination of these services will be done in partnership between the mental health program and the aging and disability services administration. The funds are not subject to the standard allocation formula applied in accordance with RCW 71.24.035(13)(a).

~~((m))~~ (t) \$750,000 of the general fund—state appropriation for fiscal year 2006 and \$750,000 of the general fund—state appropriation for fiscal year 2007 are provided to continue performance-based incentive contracts to provide appropriate community support services for individuals with severe mental illness who have been discharged from the state hospitals. These funds will be used to enhance community residential and support services provided by regional support networks through other state and federal funding.

~~((n))~~ (u) \$539,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to assist with the one-time start-up costs of two evaluation and treatment facilities. Funding for ongoing program operations shall be from existing funds that would otherwise be expended upon short-term treatment in state or community hospitals.

~~((o))~~ (v) \$550,000 of the general fund—state appropriation for fiscal year 2006 and \$150,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for ~~((a pilot project that provides integrated care through a facility specializing in long-term rehabilitation services for people with chronic mental illness who are chronically medically compromised. This project is to be implemented in coordination with and under the auspices of a regional support network))~~ enhancing rates to a facility that (i) is a licensed nursing home; (ii) is considered to be an "Institution for Mental Diseases" under centers for medicare and medicaid services criteria; (iii) specializes in long-term rehabilitation services for people with chronic mental illness who are chronically medically-compromised; and (iv) provides services to a minimum of 48 consumers funded by a regional support network. These amounts shall be provided in coordination with and under the auspices of a regional support network and shall enhance, and not supplant, other funding or in-kind resources currently being used for these purposes. These funds shall be used to cover costs incurred throughout fiscal year 2006 and fiscal year 2007 and ensure adequate compensation for extra medical care services, personal care services, and other incidental costs that are not fully covered in the current rate paid to the facility.

(w) \$450,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the mental health division, in collaboration with the children's administration and the juvenile rehabilitation services administration, to establish a pilot program to provide evidence-based mental health services to children. The mental health service or services to be provided under the pilot program must be selected from a list of evidence-based service options developed by the department, in consultation with a broadly representative group of individuals with expertise in children's mental health.

(i) The program site shall be selected through a request for proposal (RFP) process, open to counties or groups of counties, and shall be operational by December 2006.

(ii) Pilot site proposals shall be required to include: A designated lead agency and a commitment to work with community partners, including consumer/family representatives and representatives of the local mental health, juvenile justice, and child welfare systems and, at the applicant's discretion, may also include representatives of other child-serving systems such as health care and education; identification of areas of potential need based upon input from community partners; identification of the service or services that the pilot site would implement based upon community needs and resources; and demonstration of a commitment to participate in efforts that will ensure adherence to the chosen evidence-based practices and evaluate outcomes of implementation of the evidence-based practices.

(iii) The department shall contract with the University of Washington school of medicine's department of psychiatry and behavioral sciences division of public behavioral health and justice to provide support and assistance in all phases of the pilot program, including initiating, implementing, training providers, providing quality assurance, and monitoring implementation and outcomes.

**(x) Amounts provided in this subsection are sufficient to implement Second Substitute House Bill No. 2912 (mental health professionals).**

<b>(2) INSTITUTIONAL SERVICES</b>	
General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$104,749,000)</del>
	<u>\$115,706,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$110,534,000)</del>
	<u>\$137,445,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$150,115,000)</del>
	<u>\$143,693,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$29,632,000)</del>
	<u>\$30,994,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$965,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$395,030,000)</b></del>
	<u><b>\$428,803,000</b></u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The state mental hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) \$3,725,000 of the general fund—state appropriation for fiscal year 2006 and \$3,675,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to operate at least one more forensic ward at western state hospital than was operational in December 2004, and to employ professional staff in addition to those assigned in December 2004 to conduct outpatient evaluations of competency to stand trial.

(c) \$45,000 of the general fund—state appropriation for fiscal year 2006 and \$45,000 of the general fund—state appropriation for fiscal year 2007 are

provided solely for payment to the city of Lakewood on September 1 of each year for police services provided by the city at western state hospital and adjacent areas.

(d) \$6,770,000 of the general fund—state appropriation for fiscal year 2006 and \$19,850,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to open on a temporary basis five additional adult civil commitment wards at the state psychiatric hospitals. The legislature intends for these wards to close, on a phased basis, during the 2007-09 biennium as a result of targeted investments in community services for persons who would otherwise need care in the hospitals. To the extent that the department and regional support networks are able to develop and implement cost-effective approaches during fiscal year 2007 that would avert the need to open one or more of the additional wards, the department is authorized to use funds appropriated in this subsection for implementation of those approaches. The department shall seek review and comment from the legislative fiscal committees at least thirty days prior to proceeding with implementation of any such alternative approach.

(3) CIVIL COMMITMENT

General Fund—State Appropriation (FY 2006) . . . . .	(\$43,322,000)	
		\$40,499,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$46,551,000)	
		\$45,276,000
<u>Pension Funding Stabilization Account—State</u>		
<u>Appropriation</u> . . . . .		\$129,000
TOTAL APPROPRIATION . . . . .	(\$89,873,000)	\$85,904,000

(4) SPECIAL PROJECTS

General Fund—State Appropriation (FY 2006) . . . . .	\$643,000	
General Fund—State Appropriation (FY 2007) . . . . .	(\$994,000)	
		\$1,726,000
General Fund—Federal Appropriation . . . . .	(\$3,209,000)	
		\$3,395,000
<u>Pension Funding Stabilization Account—State</u>		
<u>Appropriation</u> . . . . .		\$1,000
TOTAL APPROPRIATION . . . . .	(\$4,846,000)	\$5,765,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$75,000 of the general fund—state appropriation for fiscal year 2006, \$75,000 of the general fund—state appropriation for fiscal year 2007, and \$40,000 of the general fund—federal appropriation are provided solely to implement the request for proposal process required by House Bill No. 1290 (community mental health). If House Bill No. 1290 is not enacted by June 30, 2005, these amounts shall lapse.

(b) \$178,000 of the general fund—state appropriation for fiscal year 2006 and \$221,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to develop and to train community mental health staff in the use of the integrated chemical dependency/mental health screening and assessment



system and tool required by section 601 of Senate Bill No. 5763 (mental disorders treatment). If section 601 of Senate Bill No. 5763 is not enacted by June 30, 2005, these amounts shall lapse.

(c) Funds provided in this subsection may be used to issue a request for proposals in accordance with RCW 71.24.320(2) only if Engrossed Substitute Senate Bill No. 6793 is enacted by June 30, 2006.

(5) PROGRAM SUPPORT	
General Fund—State Appropriation (FY 2006) . . . . .	(\$3,620,000)
	\$6,577,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$3,550,000)
	\$4,183,000
General Fund—Federal Appropriation . . . . .	(\$6,671,000)
	\$5,881,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	\$19,000
TOTAL APPROPRIATION . . . . .	(\$13,841,000)
	\$16,660,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$125,000 of the general fund—state appropriation for fiscal year 2006, \$125,000 of the general fund—state appropriation for fiscal year 2007, and \$164,000 of the general fund—federal appropriation are provided solely for the institute for public policy to continue the longitudinal analysis directed in chapter 334, Laws of 2001 (mental health performance audit), and, to the extent funds are available within these amounts, to build upon the evaluation of the impacts of chapter 214, Laws of 1999 (mentally ill offenders).

(b) \$2,032,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the purposes of complying with and satisfaction of a final court order and judgment in *Pierce County, et al v. State of Washington and State of Washington Department of Social and Health Services, et al*, Thurston County Superior Court Cause No. 03-2-00918-8.

(c) \$520,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the purposes of settling all claims in *County of Spokane, a Washington municipal entity v. State of Washington Department of Social and Health Services and Dennis Braddock, the Secretary of the Department of Social and Health Services, in his official capacity*, Thurston County Superior Court Cause No. 03-2-01268-5. The expenditure of this amount is contingent on the release of all claims in the case, and total settlement costs shall not exceed the amount provided in this subsection. If the settlement is not executed by June 30, 2006, the amount provided in this subsection shall lapse.

(d) Funds provided in this subsection may be used to issue a request for proposals in accordance with RCW 71.24.320(2) only if Engrossed Substitute Senate Bill No. 6793 is enacted by June 30, 2006.

\*Sec. 204 was partially vetoed. See message at end of chapter.

Sec. 205. 2005 c 518 s 205 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
DEVELOPMENTAL DISABILITIES PROGRAM**

(1) COMMUNITY SERVICES	
General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$299,027,000)</del>
	<u>\$296,430,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$311,869,000)</del>
	<u>\$312,856,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$505,414,000)</del>
	<u>\$503,419,000</u>
Health Services Account—State Appropriation . . . . .	\$904,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	<u>\$138,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$1,117,214,000)</del>
	<u>\$1,113,747,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The entire health services account appropriation, ~~(\$213,000)~~ \$151,000 of the general fund—state appropriation for fiscal year 2006, ~~(\$400,000)~~ \$427,000 of the general fund—state appropriation for fiscal year 2007, and ~~(\$600,000)~~ \$1,482,000 of the general fund—federal appropriation are provided solely for health care benefits for agency home care workers who are employed through state contracts for at least twenty hours a week. The ~~(per worker per month)~~ state contribution ~~(per agency)~~ to the cost of health care benefits per participating worker per month shall be no greater than ~~(\$380.06)~~ \$449.00 in fiscal year 2006 and ~~(\$413.14)~~ \$532.00 in fiscal year 2007.

(b) Individuals receiving family support or high school transition payments as supplemental security income (SSI) state supplemental payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments.

(c) \$516,000 of the general fund—state appropriation for fiscal year 2006, ~~(\$1,563,000)~~ \$1,917,000 of the general fund—state appropriation for fiscal year 2007, and ~~(\$2,078,000)~~ \$2,433,000 of the general fund—federal appropriation are provided solely for community residential and support services. Funding in this subsection shall be prioritized for (i) residents of residential habilitation centers who are able to be adequately cared for in community settings and who choose to live in those community settings; (ii) clients without residential services who are at immediate risk of institutionalization or in crisis; (iii) children who are aging out of other state services; and (iv) current home and community-based waiver program clients who have been assessed as having an immediate need for increased services. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$300. In order to maximize the number of clients served and ensure the cost-effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients may be served with excess funds provided the total projected carry-forward expenditures do not exceed the amounts estimated. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of

services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.

(d) ~~\$579,000~~ of the general fund—state appropriation for fiscal year 2006, ~~(\$1,531,000)~~ \$1,735,000 of the general fund—state appropriation for fiscal year 2007, and ~~(\$2,110,000)~~ \$2,315,000 of the general fund—federal appropriation are provided solely for expanded community services for persons with developmental disabilities who also have community protection issues. Funding in this subsection shall be prioritized for (i) clients being diverted or discharged from the state psychiatric hospitals; (ii) clients participating in the dangerous mentally ill offender program; (iii) clients participating in the community protection program; and (iv) mental health crisis diversion outplacements. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$300. In order to maximize the number of clients served and ensure the cost-effectiveness of the waiver programs, the department will strive to limit new client placement expenditures to 90 percent of the budgeted daily rate. If this can be accomplished, additional clients may be served with excess funds if the total projected carry-forward expenditures do not exceed the amounts estimated. The department shall implement the four new waiver programs such that decisions about enrollment levels and the amount, duration, and scope of services maintain expenditures within appropriations. The department shall electronically report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.

(e) \$12,902,000 of the general fund—state appropriation for fiscal year 2006, \$13,802,000 of the general fund—state appropriation for fiscal year 2007, and \$8,579,000 of the general fund—federal appropriation are provided solely for family support programs for individuals with developmental disabilities.

Of the amounts provided in this subsection (e), \$900,000 of the general fund—state appropriation for fiscal year 2006 and \$1,600,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of a flexible family support pilot program for families who are providing care and support for family members with developmental disabilities. The program shall provide funding for support services such as respite care, training and counseling, assistive technologies, transition services, and assistance with extraordinary household expenses.

(i) To receive funding, an individual must: (A) Be eligible for services from the division of developmental disabilities; (B) live with his or her family; (C) not live independently or with a spouse; (D) not receive paid services through the division, including medicaid personal care and medicaid waiver services; and (E) have gross household income of less than or equal to four hundred percent of the federal poverty level.

(ii) The department shall determine individual funding awards based on the following criteria: (A) Documented need for services, with priority given to individuals in crisis or at immediate risk of needing institutional services, individuals who transition from high school without employment or day program opportunities, individuals cared for by a single parent, and individuals

with multiple disabilities; (B) number and ages of family members and their relation to the individual with developmental disabilities; (C) gross annual household income; and (D) availability of state funds.

Funding awards may be made as one-time awards or on a renewable basis. Renewable awards shall be for a period of twelve months for the biennium. Awards shall be based upon the criteria provided in this subsection, but shall be within the following limits: Maximum of \$4,000 per year for an individual whose gross annual household income is up to 100 percent of the federal poverty level; maximum of \$3,000 per year for an individual whose gross annual household income is up to 200 percent of the federal poverty level; maximum of \$2,000 per year for an individual whose gross annual household income is up to 300 percent of the federal poverty level; and maximum of \$1,000 per year for an individual whose gross annual household income is up to 400 percent of the federal poverty level. Of the amounts provided in this subsection, \$150,000 of the general fund—state appropriation for fiscal year 2006 and \$300,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for one-time awards.

(iii) Eligibility for, and the amount of, renewable awards and one-time awards shall be redetermined annually and shall correspond with the application of the department's mini-assessment tool. At the end of each award period, the department must redetermine eligibility for funding, including increases or reductions in the level of funding, as appropriate.

(iv) By November 1, 2006, the department shall provide recommendations to the appropriate policy and fiscal committees of the legislature on strategies for integrating state-funded family support programs, including, if appropriate, the flexible family support pilot program, into a single program. The department shall also provide a status report on the flexible family support pilot program, which shall include the following information: The number of applicants for funding; the total number of awards; the number and amount of both annual and one-time awards, broken down by household income levels; and the purpose of the awards.

(v) The department shall manage enrollment and award levels so as to not exceed the amounts appropriated for this purpose.

(f) \$840,000 of the general fund—state appropriation for fiscal year 2006, (~~(\$1,979,000)~~) \$3,060,000 of the general fund—state appropriation for fiscal year 2007, and (~~(\$1,219,000)~~) \$1,500,000 of the general fund—federal appropriation are provided solely for employment and day services. Priority consideration for this new funding shall be young adults with developmental disabilities living with their family who need employment opportunities and assistance after high school graduation. Services shall be provided for both waiver and nonwaiver clients.

(g) \$1,000,000 of the general fund—state appropriation for fiscal year 2006, \$1,000,000 of the general fund—state appropriation for fiscal year 2007, and \$2,000,000 of the general fund—federal appropriation are provided for implementation of the administrative rate standardization. These amounts are in addition to any vendor rate increase adopted by the legislature.

(h) \$100,000 of the general fund—state appropriation for fiscal year 2006 (~~(\*)~~) and \$100,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for services to community clients provided by licensed

professionals at the state residential habilitation centers. The division shall submit claims for reimbursement for services provided to clients living in the community with medical assistance or third-party health coverage, as appropriate, and shall implement a system for billing clients without coverage. The department shall provide a report by December 1, 2006, to the appropriate committees of the legislature on the number of clients served, services provided, and expenditures and revenues associated with those services.

(i) ~~\$65,000 of the general fund—state appropriation for fiscal year 2006~~~~(, \$65,000 of the general fund—state appropriation for fiscal year 2007,)~~ and ~~(( \$130,000))~~ \$65,000 of the general fund—federal appropriation are provided solely for supplemental compensation increases for direct care workers employed by home care agencies in recognition of higher labor market cost pressures experienced by agencies subject to collective bargaining obligations. In order for a specific home care agency to be eligible for such increases, home care agencies shall submit the following to the department:

(i) Proof of a legally binding, written commitment to increase the compensation of agency home care workers; and

(ii) Proof of the existence of a method of enforcement of the commitment, such as arbitration, that is available to the employees or their representative, and proof that such a method is expeditious, uses a neutral decision maker, and is economical for the employees.

(j) \$12,000 of the general fund—state appropriation for fiscal year 2007 and \$12,000 of the general fund—federal appropriation are provided solely to increase boarding home provider payment rates by 1.0 percent, effective July 1, 2006.

(k) \$134,000 of the general fund—state appropriation for fiscal year 2007 and \$134,000 of the general fund—federal appropriation are provided solely to increase adult family home provider payment rates by 1.0 percent, effective July 1, 2006.

(l) \$955,000 of the general fund—state appropriation for fiscal year 2007 and \$958,000 of the general fund—federal appropriation are provided solely for a rate increase for supported living providers of 15 cents per hour for King county, and 12 cents per hour for all other counties.

(m) \$778,000 of the general fund—state appropriation for fiscal year 2007 and \$580,000 of the general fund—federal appropriation are provided solely for additional case managers and support staff. The department shall dedicate half of the amount provided in this subsection to accelerate the implementation of the mini-assessment tool on clients not currently receiving paid services.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$76,062,000)</del>
	<u>\$76,623,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$78,545,000)</del>
	<u>\$78,826,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$152,479,000)</del>
	<u>\$153,807,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$12,000,000)</del>
	<u>\$11,237,000</u>

Pension Funding Stabilization Account—State

<u>Appropriation</u> .....	\$457,000
TOTAL APPROPRIATION.....	(\$319,086,000)
	<u>\$320,950,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: The developmental disabilities program is authorized to use funds appropriated in this section to purchase goods and supplies through direct contracting with vendors when the program determines it is cost-effective to do so.

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2006).....	(\$2,457,000)
	<u>\$2,312,000</u>
General Fund—State Appropriation (FY 2007).....	(\$2,068,000)
	<u>\$1,924,000</u>
General Fund—Federal Appropriation.....	(\$3,034,000)
	<u>\$3,014,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> .....	\$17,000
TOTAL APPROPRIATION.....	(\$7,559,000)
	<u>\$7,267,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: \$578,000 of the general fund—state appropriation for fiscal year 2006 and \$578,000 of the general fund—federal appropriation are provided solely for the purpose of developing and implementing a consistent needs assessment instrument for use on all clients with developmental disabilities. In developing the instrument, the department shall develop a process for collecting data on family income for minor children with developmental disabilities and all individuals who are receiving state-only funded services. The department shall ensure that this information is captured as part of the client assessment process.

(4) SPECIAL PROJECTS

General Fund—State Appropriation (FY 2006).....	\$11,000
General Fund—State Appropriation (FY 2007).....	\$17,000
General Fund—Federal Appropriation.....	(\$16,668,000)
	<u>\$17,238,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> .....	\$2,000
TOTAL APPROPRIATION.....	(\$16,696,000)
	<u>\$17,268,000</u>

Sec. 206. 2005 c 518 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—AGING AND ADULT SERVICES PROGRAM**

General Fund—State Appropriation (FY 2006).....	(\$604,891,000)
	<u>\$610,082,000</u>
General Fund—State Appropriation (FY 2007).....	(\$623,448,000)
	<u>\$663,865,000</u>
General Fund—Federal Appropriation.....	(\$1,264,939,000)
	<u>\$1,312,062,000</u>

General Fund—Private/Local Appropriation . . . . .	(\$18,939,000)
	<u>\$18,949,000</u>
Health Services Account—State Appropriation . . . . .	\$4,888,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$317,000
TOTAL APPROPRIATION . . . . .	(\$2,517,105,000)
	<u>\$2,610,163,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The entire health services account appropriation, ~~(((\$610,000))~~ \$6,911,000 of the general fund—state appropriation for fiscal year 2006, ~~(((\$610,000))~~ \$11,571,000 of the general fund—state appropriation for fiscal year 2007, and ~~(((\$5,552,000))~~ \$23,251,000 of the general fund—federal appropriation are provided solely for health care benefits for agency home care workers who are employed through state contracts for at least twenty hours a week. The ~~((per worker per month))~~ state contribution ~~((per agency))~~ to the cost of health care benefits per eligible participating worker per month shall be no greater than ~~(((\$380.06))~~ \$449.00 in fiscal year 2006 and ~~(((\$413.14))~~ \$532.00 per month in fiscal year 2007. The department, in consultation with the home care quality authority and the health care authority, shall examine how the state determines the appropriate level of health care costs when establishing state contribution rates for all agency and individual home care workers caring for state subsidized clients. The department shall recommend options as to how equivalent benefits can be purchased on behalf of home care workers in a more cost effective manner to the office of financial management and the appropriate fiscal committees of the legislature by October 1, 2006.

(2) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall not exceed ~~(((\$149.14))~~ \$147.57 for fiscal year 2006 and shall not exceed ~~(((\$153.50))~~ \$156.41 for fiscal year 2007.

(3) In accordance with chapter 74.46 RCW, the department shall issue certificates of capital authorization that result in up to \$16 million of increased asset value completed and ready for occupancy in fiscal year 2006; up to \$16 million of increased asset value completed and ready for occupancy in fiscal year 2007; and up to \$16 million of increased asset value completed and ready for occupancy in fiscal year 2008.

(4) Adult day health services shall not be considered a duplication of services for persons receiving care in long-term care settings licensed under chapter 18.20, 72.36, or 70.128 RCW.

(5) In accordance with chapter 74.39 RCW, the department may implement two medicaid waiver programs for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) One waiver program shall include coverage of care in community residential facilities. Enrollment in the waiver shall not exceed 600 persons at any time.

(b) The second waiver program shall include coverage of in-home care. Enrollment in this second waiver shall not exceed 200 persons at any time.

(c) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on each of the two medically needy waivers, on monthly management reports.

(d) If it is necessary to establish a waiting list for either waiver because the budgeted number of enrollment opportunities has been reached, the department shall track how the long-term care needs of applicants assigned to the waiting list are met.

(6) (~~(\$1,413,000)~~) \$1,604,000 of the general fund—state appropriation for fiscal year 2006, (~~(\$2,887,000)~~) \$3,450,000 of the general fund—state appropriation for fiscal year 2007, and (~~(\$4,305,000)~~) \$5,064,000 of the general fund—federal appropriation are provided solely to increase compensation for direct care workers employed by home care agencies by 27 cents per hour on July 1, 2005, and by an additional 23 cents per hour on July 1, 2006. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the increase.

(7) \$1,786,000 of the general fund—state appropriation for fiscal year 2006 and \$1,804,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for operation of the volunteer chore services program.

(8) The department shall establish waiting lists to the extent necessary to assure that annual expenditures on the community options program entry systems (COPES) program do not exceed appropriated levels. In establishing and managing any such waiting list, the department shall assure priority access to persons with the greatest unmet needs, as determined by department assessment processes.

(9) \$93,000 of the general fund—state appropriation for fiscal year 2006, \$8,000 of the general fund—state appropriation for fiscal year 2007, and \$101,000 of the general fund—federal appropriation are provided solely to expand the number of boarding homes that receive exceptional care rates for persons with Alzheimer's disease and related dementias who might otherwise require nursing home care. The department may expand the number of licensed boarding home facilities that specialize in caring for such conditions by up to 85 beds in fiscal year 2006 and up to 150 beds in fiscal year 2007.

(10) \$305,000 of the general fund—state appropriation for fiscal year 2006 and \$377,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the senior farmer's market nutrition program.

(~~(12)~~) (11) \$109,000 of the general fund—state appropriation for fiscal year 2006, \$90,000 of the general fund—state appropriation for fiscal year 2007, and \$198,000 of the general fund—federal appropriation are provided solely for the implementation of Second Substitute House Bill No. 1220 (long-term care financing). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(~~(13)~~) (12) \$100,000 of the general fund—state appropriation for fiscal year 2006 and \$100,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for area agencies on aging, or entities with which area agencies on aging contract, to provide a kinship navigator for grandparents and other kinship caregivers of children in both western and eastern Washington.

(a) Kinship navigator services shall include but not be limited to assisting kinship caregivers with understanding and navigating the system of services for



children in out-of-home care while reducing barriers faced by kinship caregivers when accessing services.

(b) In providing kinship navigator services, area agencies on aging shall give priority to helping kinship caregivers maintain their caregiving role by helping them access existing services and supports, thus keeping children from entering foster care.

~~((14))~~ (13) \$435,000 of the general fund—state appropriation for fiscal year 2006 ~~(, \$435,000 of the general fund—state appropriation for fiscal year 2007,)~~ and ~~((870,000))~~ \$435,000 of the general fund—federal appropriation are provided solely for supplemental compensation increases for direct care workers employed by home care agencies in recognition of higher labor market cost pressures experienced by agencies subject to collective bargaining obligations. In order for a specific home care agency to be eligible for such increases, home care agencies shall submit the following to the department:

~~((a))~~ (a) Proof of a legally binding, written commitment to increase the compensation of agency home care workers; and

~~((b))~~ (b) Proof of the existence of a method of enforcement of the commitment, such as arbitration, that is available to the employees or their representative, and proof that such a method is expeditious, uses a neutral decision maker, and is economical for the employees.

(14) \$7,500,000 of the general fund—state appropriation for fiscal year 2007 and \$7,500,000 of the general fund—federal appropriation are provided solely for purposes of settling all claims in the class action suit commonly known as *Regency Pacific et al. v. Department of Social and Health Services*. The expenditure of this amount is contingent on the release of all claims in the case, and total settlement costs shall not exceed the amount provided in this subsection.

(15) \$121,000 of the general fund—state appropriation for fiscal year 2007 and \$120,000 of the general fund—federal appropriation are provided solely to implement Engrossed Substitute House Bill No. 2475 (individual providers). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

(16) \$57,000 of the general fund—state appropriation for fiscal year 2007 and \$57,000 of the general fund—federal appropriation are provided solely to implement Engrossed Second Substitute Senate Bill No. 6630 (threatening individuals). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

(17) \$4,493,000 of the general fund—state appropriation for fiscal year 2007 and \$4,478,000 of the general fund—federal appropriation are provided solely to implement Substitute House Bill No. 2333 (agency home care workers). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

(18) \$183,000 of the general fund—state appropriation for fiscal year 2006 and \$184,000 of the general fund—federal appropriation are provided solely for payments to a boarding home licensed under chapter 18.20 RCW on January 25, 2002, which contracts with the department to provide assisted living services and which serves 20 or more clients participating in the program for all-inclusive care.

(19) \$10,090,000 of the general fund—state appropriation for fiscal year 2007 and \$10,090,000 of the general fund—federal appropriation are provided solely for the implementation of House Bill No. 2716 (nursing facility payment). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

(20) \$500,000 of the general fund—state appropriation for fiscal year 2006 and \$1,000,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for area agencies on aging, or entities with which area agencies on aging contract, to provide support services through the kinship caregiver support program for grandparents and other informal kinship caregivers of children throughout the state.

(21) \$732,000 of the general fund—state appropriation for fiscal year 2007 and \$715,000 of the general fund—federal appropriation are provided solely to increase boarding home provider payment rates by 1.0 percent, effective July 1, 2006.

(22) \$443,000 of the general fund—state appropriation for fiscal year 2007 and \$437,000 of the general fund—federal appropriation are provided solely to increase adult family home provider payment rates by 1.0 percent, effective July 1, 2006.

\*Sec. 207. 2005 c 518 s 207 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ECONOMIC SERVICES PROGRAM**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$483,166,000)</del>
	\$514,027,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$501,081,000)</del>
	\$531,957,000
General Fund—Federal Appropriation . . . . .	<del>(\$1,246,447,000)</del>
	\$1,245,673,000
General Fund—Private/Local Appropriation . . . . .	<del>(\$31,466,000)</del>
	\$27,535,000
<u>Pension Funding Stabilization Account—State</u>	
Appropriation . . . . .	\$1,138,000
TOTAL APPROPRIATION . . . . .	<del>(\$2,262,160,000)</del>
	\$2,320,330,000

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$273,333,000)~~ \$303,247,000 of the general fund—state appropriation for fiscal year 2006, ~~(\$273,333,000)~~ \$307,273,000 of the general fund—state appropriation for fiscal year 2007, and ~~(\$1,020,292,000)~~ \$905,232,000 of the general fund—federal appropriation are provided solely for all components of the WorkFirst program. Within the amounts provided for the WorkFirst program, the department shall:

(a) Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Outcome data regarding job retention and wage progression shall be reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. The department shall also report the percentage of

families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months; and

(b) Submit a report by October 1, 2005, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2005-2007 biennium will be adjusted to stay within available federal grant levels and the appropriated state-fund levels.

(2) (~~(\$75,833,000)~~) \$72,526,000 of the general fund—state appropriation for fiscal year 2006 and (~~(\$74,358,000)~~) \$77,880,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for cash assistance and other services to recipients in the general assistance—unemployable program. Within these amounts:

(a) The department may expend funds for services that assist recipients to obtain employment and reduce their dependence on public assistance, provided that expenditures for these services and cash assistance do not exceed the funds provided. Mental health, substance abuse, and vocational rehabilitation services may be provided to recipients whose incapacity is not severe enough to qualify for services through a regional support network, the alcoholism and drug addiction treatment and support act, or the division of vocational rehabilitation to the extent that those services are necessary to eliminate or minimize barriers to employment;

(b) The department shall review the general assistance caseload to identify recipients that would benefit from assistance in becoming naturalized citizens, and thus be eligible to receive federal supplemental security income benefits. Those cases shall be given high priority for naturalization funding through the department;

(c) The department shall identify general assistance recipients who are or may be eligible to receive health care coverage or services through the federal veteran's administration and assist recipients in obtaining access to those benefits; and

(d) The department shall report by November of each year to the appropriate committees of the legislature on the progress and outcomes of these efforts.

(3) Within amounts appropriated in this section, the department shall increase the state supplemental payment by \$10 per month beginning in fiscal year 2006, and by an additional \$2.06 per month beginning in fiscal year 2007, for SSI clients who reside in nursing facilities, residential habilitation centers, or state hospitals and who receive a personal needs allowance and decrease other state supplemental payments.

(4) \$5,000,000 of the general fund—state appropriation for fiscal year 2006 and \$10,000,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for a subsidy rate increase for child care providers. Of this amount, \$500,000 per year shall be targeted for child care providers in urban areas of region 1 and \$500,000 per year shall be targeted for one or more tiered-reimbursement pilot projects.

**(5) \$51,000 of the general fund—state appropriation for fiscal year 2006, \$84,000 of the general fund—state appropriation for fiscal year 2007, and \$261,000 of the general fund—federal appropriation are provided solely to implement Second Substitute House Bill No. 2462 (child support schedule). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.**

\*Sec. 207 was partially vetoed. See message at end of chapter.

Sec. 208. 2005 c 518 s 208 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$57,235,000)</del>
	<u>\$55,136,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$66,956,000)</del>
	<u>\$67,345,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$110,175,000)</del>
	<u>\$136,750,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$633,000)</del>
	<u>\$634,000</u>
Criminal Justice Treatment Account—State Appropriation . . . . .	\$16,500,000
Violence Reduction and Drug Enforcement Account—State Appropriation . . . . .	\$48,842,000
Problem Gambling ( <del>Treatment</del> ) Account—State Appropriation . . . . .	<del>(\$1,500,000)</del>
	<u>\$1,350,000</u>
Public Safety and Education Account—State Appropriation . . . . .	\$2,081,000
<u>Pension Funding Stabilization Account—State Appropriation . . . . .</u>	<u>\$39,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$303,922,000)</del>
	<u>\$328,677,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$1,500,000)~~ \$100,000 of the general fund—state appropriation for fiscal year 2006, \$50,000 of the general fund—state appropriation for fiscal year 2007, and \$1,350,000 of the problem gambling (~~treatment~~) account appropriation (~~is~~) are provided solely for the program established in Engrossed Substitute House Bill No. 1031 (problem gambling). If legislation creating the account is not enacted by June 30, 2005, this amount shall lapse.

(2) \$1,339,000 of the general fund—state appropriation for fiscal year 2006 and ~~(\$1,338,000)~~ \$1,713,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the parent child assistance program, including an expansion of services to southwestern Washington and Skagit county. The department shall contract with the University of Washington and community-based providers in Spokane, Yakima, Skagit county, and southwestern Washington for the provision of this program. For all contractors, indirect charges for administering the program shall not exceed ten percent of the total contract amount. The amounts provided in this subsection are sufficient to fund section 303 of Senate Bill No. 5763 (mental disorders treatment).

(3) \$2,000,000 of the general fund—state appropriation for fiscal year 2006 and \$3,000,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for vendor rate adjustments for residential treatment providers for chemical dependency services.

(4) \$465,000 of the general fund—state appropriation for fiscal year 2006, \$934,000 of the general fund—state appropriation for fiscal year 2007,

\$1,319,000 of the general fund—federal appropriation, and \$700,000 of the violence reduction and drug enforcement account appropriation are provided solely for vendor rate adjustments for residential treatment providers. To the extent that a portion of this funding is sufficient to maintain sufficient residential treatment capacity, remaining amounts may then be used to provide vendor rate adjustments to other types of providers as prioritized by the department in order to maintain or increase treatment capacity.

(5) \$1,916,000 of the general fund—state appropriation for fiscal year 2006 and \$4,278,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for integrated pilot programs as required by section 203 of Senate Bill No. 5763 (mental disorders treatment). If section 203 of Senate Bill No. 5763 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(6) \$244,000 of the general fund—state appropriation for fiscal year 2006 and \$244,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for intensive case management pilot programs as required by section 220 of Senate Bill No. 5763 (mental disorders treatment). If section 220 of Senate Bill No. 5763 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(7) \$159,000 of the general fund—state appropriation for fiscal year 2006, \$140,000 of the general fund—state appropriation for fiscal year 2007, and \$161,000 of the general fund—federal appropriation are provided solely for development of the integrated chemical dependency/mental health screening and assessment tool required by section 601 of Senate Bill No. 5763 (mental disorders treatment), and associated training and quality assurance. If section 601 of Senate Bill No. 5763 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(8) \$5,475,000 of the general fund—state appropriation for fiscal year 2006, \$13,124,000 of the general fund—state appropriation for fiscal year 2007, and \$10,669,000 of the general fund—federal appropriation are provided solely to increase capacity of chemical dependency treatment services for adult medicaid eligible and general assistance-unemployable clients. The department shall monitor the number and type of clients entering treatment, for purposes of determining potential cost offsets.

(9) \$1,967,000 of the general fund—state appropriation for fiscal year 2006, \$2,523,000 of the general fund—state appropriation for fiscal year 2007, and \$1,496,000 of the general fund—federal appropriation are provided solely to increase capacity of chemical dependency treatment services for minors who are under 200 percent of the federal poverty level. The department shall monitor the number and type of clients entering treatment, for purposes of determining potential cost offsets.

**Sec. 209.** 2005 c 518 s 209 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
MEDICAL ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$1,481,212,000)</del>
	\$1,462,447,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$1,596,101,000)</del>
	\$1,550,541,000

General Fund—Federal Appropriation . . . . .	<del>(\$4,036,615,000)</del>
	<u>\$4,001,987,000</u>
General Fund—Private/Local Appropriation . . . . .	\$2,000,000
Emergency Medical Services and Trauma Care Systems	
Trust Account—State Appropriation . . . . .	\$15,000,000
Health Services Account—State Appropriation . . . . .	<del>(\$636,942,000)</del>
	<u>\$677,288,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$123,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$7,767,870,000)</del>
	<u>\$7,709,386,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Based on quarterly expenditure reports and caseload forecasts, if the department estimates that expenditures for the medical assistance program will exceed the appropriations, the department shall take steps including but not limited to reduction of rates or elimination of optional services to reduce expenditures so that total program costs do not exceed the annual appropriation authority.

(2) The department shall continue to extend medicaid eligibility to children through age 18 residing in households with incomes below 200 percent of the federal poverty level.

(3) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(4) Sufficient amounts are appropriated in this section for the department to continue podiatry services for medicaid-eligible adults.

(5) Sufficient amounts are appropriated in this section for the department to provide an adult dental benefit that is equivalent to the benefit provided in the 2003-05 biennium.

(6) In accordance with RCW 74.46.625, \$6,000,000 of the general fund—federal appropriation is provided solely for supplemental payments to nursing homes operated by public hospital districts. The public hospital district shall be responsible for providing the required nonfederal match for the supplemental payment, and the payments shall not exceed the maximum allowable under federal rules. It is the legislature's intent that the payments shall be supplemental to and shall not in any way offset or reduce the payments calculated and provided in accordance with part E of chapter 74.46 RCW. It is the legislature's further intent that costs otherwise allowable for rate-setting and settlement against payments under chapter 74.46 RCW shall not be disallowed solely because such costs have been paid by revenues retained by the nursing home from these supplemental payments.

(7) ~~(\$1,660,000)~~ \$2,221,000 of the health services account appropriation, ~~(\$4,361,000)~~ \$5,402,000 of the general fund—federal appropriation, ~~(\$1,350,000)~~ \$1,590,000 of the general fund—state appropriation for fiscal year 2006, and ~~(\$1,351,000)~~ \$1,591,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for grants to rural hospitals. The department shall distribute the funds under a formula that

provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(8) (~~(\$22,081,000)~~) \$21,092,000 of the health services account appropriation and (~~(\$20,714,000)~~) \$19,725,000 of the general fund—federal appropriation are provided solely for grants to nonrural hospitals. The department shall distribute the funds under a formula that provides a relatively larger share of the available funding to hospitals that (a) serve a disproportionate share of low-income and medically indigent patients and (b) have relatively smaller net financial margins, to the extent allowed by the federal medicaid program.

(9) In response to the federal directive to eliminate intergovernmental transfer transactions effective June 30, 2005, the department is directed to implement the inpatient hospital certified public expenditures program for the 2005-07 biennium. The program shall apply to all public hospitals, including those owned or operated by the state, except those classified as critical access hospitals or state psychiatric institutions. Hospitals in the program shall be paid and shall retain (a) one hundred percent of the federal portion of each medicaid inpatient fee-for-service claim payable by the medical assistance administration; and (b) one hundred percent of the federal portion of the maximum disproportionate share hospital payment allowable under federal regulations. Medicaid fee-for-service claim amounts shall be established by applying the department's ratio of costs to charges payment methodology. The department shall provide participating hospitals with the information and instructions needed by the hospital to certify the public expenditures required to qualify for the federal portions of both the medicaid inpatient fee-for-service payments and the disproportionate share hospital payments. In the event that any part of the program including, but not limited to, allowable certified public expenditures, is disallowed by the federal government, the department shall not seek recoupment of payments from the hospitals, provided the hospitals have complied with the directions of the department for participation in the program. The legislature intends that hospitals in the program receive no less in combined state and federal payments than they would have received under the methodology that was in place during fiscal year 2005. The department shall therefore make additional grant payments, not to exceed the amounts (~~provided~~) specified in this subsection, to hospitals whose total payments under the program would otherwise be less than the total state and federal payments they would have received under the methodology in effect during fiscal year 2005. (~~(\$37,034,000 of the general fund—state appropriation for fiscal year 2006, \$37,552,000 of the general fund—state appropriation for fiscal year 2007, \$8,300,000 of the emergency medical services and trauma care systems trust account—state appropriation, and \$45,450,000 of the general fund—federal appropriation are provided solely for new state grant and upper payment limit programs for the participating hospitals-)~~) Payments under these new state grant and upper payment limit programs shall not exceed \$54,054,000 from general fund—state appropriations in fiscal year 2006, of which \$5,600,000 is appropriated in section 204(1) of this 2006 act and the balance in this section; \$47,474,000 from general fund—state appropriations in fiscal year 2007, of which \$5,600,000 is

appropriated in section 204(1) of this 2006 act and the balance in this section; and \$11,328,000 from the general fund—federal appropriations in this section.

(10) (~~(\$4,372,000)~~) \$4,077,000 of the general fund—state appropriation for fiscal year 2006, (~~(\$4,014,000)~~) \$4,847,000 of the general fund—state appropriation for fiscal year 2007, and (~~(\$65,112,000)~~) \$70,100,000 of the general fund—federal appropriation are provided solely for development and implementation of a replacement system for the existing medicaid management information system.

(11) (~~(\$150,000)~~) \$188,000 of the general fund—state appropriation for fiscal year 2006, (~~(\$75,000)~~) \$37,000 of the general fund—state appropriation for fiscal year 2007, and \$225,000 of the general fund—federal appropriation are provided solely for the department to contract for an independent analysis of the medical assistance administration's current system for establishing hospital inpatient payment rates, and for recommendations on a new or updated system. The department shall submit an interim report of study findings by December 1, 2005, and a final report by November 15, 2006. The interim report shall include a comparison of the strengths and weaknesses of the current rate-setting system relative to those used by other state, federal, and private payers. The final report shall include recommendations on the design and implementation of a new or updated system that will promote equity among hospitals, access to quality care and improved health outcomes for patients, and cost-control and efficiency for taxpayers. The study should make use of complete and current cost data from a wide variety of hospitals, recognize unique aspects of hospital service delivery structures and medicaid payment systems in Washington, recognize impacts on productivity and quality of care that may result from hospital compensation, recruitment, and retention policies, and provide opportunities for comment and participation by key interest groups in the identification and assessment of alternatives.

(12) Payment rates for hospital inpatient and outpatient services shall be increased by an average of 1.3 percent effective July 1, 2005, and by an average of an additional 1.3 percent effective July 1, 2006. The inpatient increases shall be provided only on the portion of a hospital's rate that excludes medical education and outlier costs, and shall be allocated so that hospitals with lower costs of care (excluding medical education and outlier costs) receive larger percentage increases than those with higher costs of care. The inpatient increases shall be allocated in three percentage increments, with the lowest-cost hospitals receiving the largest percentage rate increase, highest-cost hospitals receiving the smallest percentage increase, and medium-cost hospitals receiving the average of the highest and the lowest percentage rate increase. Increases shall not be provided to those hospitals that are certified as critical access. Sufficient funds are appropriated in this section for Healthy Options contractors to increase hospital payment rates commensurate with the increases in fee-for-service payment rates.

(13) When a person is ineligible for medicaid solely by reason of residence in an institution for mental diseases, the department shall provide the person with the same benefits as he or she would receive if eligible for medicaid, using state-only funds to the extent necessary.

(14) The medical assistance administration is authorized to use funds appropriated in this section to purchase goods and supplies through direct



contracting with vendors when the administration determines it is cost-effective to do so.

(15) The legislature affirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(16) By October 1, 2005, the department shall recommend to the governor and legislature at least two pilot project designs which seem likely to reduce avoidable emergency room utilization at no net cost to the state within the projects' first eighteen months of operation.

(17) Within funds appropriated in this section, the department shall participate in the health technology assessment program required in section 213(6) of this act.

(18) The department is also required to participate in the joint health purchasing project described in section 213(7) of this act.

(19) The department shall, within available resources, continue operation of the medical care services care management pilot project for clients receiving general assistance benefits in King and Pierce counties. The project may use a full or partial capitation model that includes a mechanism for shared savings. The department shall provide a report to the appropriate committees of the legislature by January 1, 2006, on costs, savings, and any outcomes or quality measures associated with the pilot programs during the first year of operation.

(20) By October 1, 2005, the department shall report to the appropriate committees of the legislature on the potential fiscal and programmatic costs and benefits associated with an expansion of managed care pilot programs to SSI and other eligible medicaid elderly and disabled persons.

~~((22))~~ (21) By November 15, 2006, the department of social and health services, in consultation with the department of revenue and the health care authority, shall report to the health care and fiscal committees of the legislature on options for providing financial incentives for private practice physicians to serve uninsured, medicare, and medicaid patients. The report shall include an assessment of the relative costs and effectiveness of strategies including, but not limited to, tax credits and payment rate increases. The report shall further suggest alternative mechanisms and thresholds for varying tax credits and payment enhancements according to the extent to which a provider serves uninsured, medicare, and medicaid patients.

(22) The department is directed to pursue all available administrative remedies to dispute and reverse recent large retroactive charges by the federal medicare program for payment of medicare part B premiums on behalf of medicaid recipients, to the extent that such premiums are for periods when medicare coverage was in fact never provided the beneficiaries, and their care was instead fully covered by the state medicaid program. The department shall report to the fiscal committees of the legislature by December 1, 2006, on the actions it has taken to dispute and reverse these charges.

(23) \$66,000 of the general fund—state appropriation for fiscal year 2007 and \$66,000 of the general fund—federal appropriation are provided solely to implement Second Substitute House Bill No. 2002 (foster care support services). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(24) \$255,000 of the general fund—state appropriation for fiscal year 2007 and \$2,107,000 of the general fund—federal appropriation are provided solely to increase the availability of family planning services at the department of social and health services' community service offices. Resources will be prioritized for those offices where pregnancy rates are higher than the statewide average.

(25) \$17,000 of the general fund—state appropriation for fiscal year 2006, \$53,000 of the general fund—state appropriation for fiscal year 2007, and \$70,000 of the general fund—federal appropriation are provided solely for conducting a study of the employment status of enrollees in the basic health plan and the medical assistance program, pursuant to Engrossed Substitute House Bill No. 3079 (health care services). If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

**Sec. 210.** 2005 c 518 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
VOCATIONAL REHABILITATION PROGRAM**

General Fund—State Appropriation (FY 2006) . . . . .	(\$11,202,000)
	<u>\$10,694,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$11,350,000)
	<u>\$11,014,000</u>
General Fund—Federal Appropriation . . . . .	(\$86,908,000)
	<u>\$89,472,000</u>
<del>((General Fund—Private/Local Appropriation . . . . .</del>	<del>(\$440,000)</del>
Telecommunications Devices for the Hearing and Speech Impaired—State Appropriation . . . . .	(\$1,791,000)
	<u>\$1,792,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$31,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>(\$111,691,000)</b>
	<b><u>\$113,003,000</u></b>

The appropriations in this section are subject to the following conditions and limitations: The division of vocational rehabilitation shall maintain support for existing clubhouse programs at the 2003-2005 level.

**Sec. 211.** 2005 c 518 s 211 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund—State Appropriation (FY 2006) . . . . .	(\$32,933,000)
	<u>\$34,675,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$29,910,000)
	<u>\$36,860,000</u>
General Fund—Federal Appropriation . . . . .	(\$51,489,000)
	<u>\$62,376,000</u>
General Fund—Private/Local Appropriation . . . . .	\$810,000
Public Safety and Education Account—State	
Appropriation . . . . .	\$2,452,000
Violence Reduction and Drug Enforcement Account—State	
Appropriation . . . . .	(\$1,791,000)
	<u>\$1,793,000</u>

<del>((Domestic Violence Prevention Account—State</del>	
<del>Appropriation.....</del>	<del>\$1,345,000))</del>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation.....</u>	<u>\$300,000</u>
TOTAL APPROPRIATION.....	<del>((</del> <u>\$139,266,000</u> <del>))</del>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$500,000 of the general fund—state appropriation for fiscal year 2006 and \$500,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for funding of the teamchild project through the governor's juvenile justice advisory committee.

(2) \$2,452,000 of the public safety and education account—state appropriation, \$1,500,000 of the general fund—state appropriation for fiscal year 2007, and \$1,791,000 of the violence reduction and drug enforcement account—state appropriation are provided solely for the family policy council.

(3) ~~((~~\$2,245,000~~))~~ of the general fund—state appropriation for fiscal year 2006, ~~((~~\$1,589,000~~))~~ of the general fund—state appropriation for fiscal year 2007, and \$3,834,000 of the general—fund federal appropriation are provided solely to implement the 2005-07 home care worker collective bargaining agreement.

~~((~~\$1,345,000~~))~~ of the domestic violence prevention account is provided solely for the implementation of Engrossed Substitute House Bill No. 1314 (domestic violence prevention). If legislation creating the account is not enacted by June 30, 2005, this amount shall lapse.)

**Sec. 212.** 2005 c 518 s 212 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund—State Appropriation (FY 2006).....	<del>((</del> <u>\$48,755,000</u> <del>))</del>
	<u>\$48,755,000</u>
General Fund—State Appropriation (FY 2007).....	<del>((</del> <u>\$49,277,000</u> <del>))</del>
	<u>\$49,277,000</u>
General Fund—Federal Appropriation.....	<del>((</del> <u>\$47,248,000</u> <del>))</del>
	<u>\$47,248,000</u>
TOTAL APPROPRIATION.....	<del>((</del> <u>\$145,280,000</u> <del>))</del>
	<u>\$145,280,000</u>

**Sec. 213.** 2005 c 518 s 213 (uncodified) is amended to read as follows:

**FOR THE STATE HEALTH CARE AUTHORITY**

General Fund—Federal Appropriation.....	<del>((</del> <u>\$3,710,000</u> <del>))</del>
	<u>\$3,710,000</u>
State Health Care Authority Administrative Account—	
State Appropriation.....	<del>((</del> <u>\$33,279,000</u> <del>))</del>
	<u>\$33,279,000</u>
Medical Aid Account—State Appropriation.....	<del>((</del> <u>\$345,000</u> <del>))</del>
	<u>\$345,000</u>
Health Services Account—State Appropriation.....	<del>((</del> <u>\$468,286,000</u> <del>))</del>
	<u>\$468,286,000</u>

TOTAL APPROPRIATION .....(~~\$488,912,000~~)  
\$505,620,000

The appropriations in this section are subject to the following conditions and limitations:

(1) Within amounts appropriated in this section and sections 205 and 206 of this act, the health care authority shall continue to provide an enhanced basic health plan subsidy for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at the minimum premium amount charged to enrollees with incomes below sixty-five percent of the federal poverty level.

(2) The health care authority shall require organizations and individuals which are paid to deliver basic health plan services and which choose to sponsor enrollment in the subsidized basic health plan to pay 133 percent of the premium amount which would otherwise be due from the sponsored enrollees.

(3) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of (i) income tax returns, and recent pay history, from all applicants, or (ii) other verifiable evidence of earned and unearned income from those persons not required to file income tax returns; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; (e) not reduce gross family income for self-employed persons by noncash-flow expenses such as, but not limited to, depreciation, amortization, and home office deductions, as defined by the United States internal revenue service; and (f) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(4) (~~(\$19,108,000)~~) \$21,108,000 of the health services account—state appropriation is provided solely for funding for health care services provided through local community clinics.

(5) \$391,000 of the health services account appropriation is provided solely for implementation of Substitute Senate Bill No. 5471, chapter 129, Laws of 2005 (drug purchasing consortium).

(6) The health care authority shall conduct a health technology assessment pilot project to evaluate scientific evidence regarding current and evolving health care procedures, services and technology. The pilot shall be a joint effort of the departments of social and health services, labor and industries, corrections, and veteran's affairs and the health care authority. Upon completion of assessment of a procedure, service or technology, the agencies shall make every effort, consistent with federal and state law, to jointly decide: (a) On coverage of the procedure, service or technology by each agency, and (b) if covered, the guidelines or criteria that will be applied to medical necessity decisions.

(7) The departments of social and health services, labor and industries and the health care authority, in collaboration with affected health care providers, facilities, and contracted health plans, shall design and implement a joint health purchasing project that links payment to health care provider or facility performance, particularly where such performance is expected to improve patient outcomes or where there are wide variations in clinical practice used to treat a condition or illness. The purchasing effort shall utilize evidence-based performance measures that are designed to improve quality of care and yield measurable and significant savings. The project shall include payment mechanisms that create incentives to improve quality of care. On or before December 1, 2006, the agencies shall report to relevant policy and fiscal committees of the legislature on the status of the purchasing project, including actual and anticipated savings.

(8) \$395,000 of the health services account appropriation is provided solely for implementation of Substitute House Bill No. 1689 (dental residency program). If Substitute House Bill No. 1689 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(9) \$250,000 of the health services account appropriation is provided solely for implementation of Engrossed Second Substitute House Bill No. 1688 (certificate of need program). If Engrossed Second Substitute House Bill No. 1688 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(10) \$316,000 of the health services account—state appropriation and \$15,000 of the general fund—federal appropriation are provided solely for a study of electronic medical records systems pursuant to Substitute Senate Bill No. 5064 (electronic medical records). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(11) \$458,000 of the health services account appropriation, \$401,000 of the general fund—federal appropriation, \$205,000 of the state health care authority administrative account—state appropriation, and \$174,000 of the medical aid account—state appropriation are provided solely for establishment of a centralized evidence-based health technology assessment system as defined in Engrossed Second Substitute House Bill No. 2575 (health technology assessment), for supporting the activities of the health technology clinical committee, or other activities required to implement Engrossed Second Substitute House Bill No. 2575. Participating agencies will be the medical assistance administration in the department of social and health services, the department of labor and industries, the health care authority's uniform medical plan, the department of corrections, and the department of veterans affairs. If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(12) As provided in Engrossed Second Substitute Senate Bill No. 6459 (community-based health care solutions), the authority shall make grants of up to \$250,000 from the community health collaborative account to assist community-based organizations increase access to appropriate, affordable health care for Washington residents, particularly low-income working individuals and their families. State grant funds may be used to collect federal matching funds available through medicaid or through the state children's health insurance (SCHIP) program, to the extent allowed by federal rules, and to the extent funds

are available in the state's SCHIP allotment in excess of those required for services funded in section 209 of this 2006 act.

(13) \$625,000 of the health services account appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2572 (small business health insurance assistance program). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(14) \$450,000 of the state health care authority administrative account—state appropriation is provided solely for an on-line employee health assessment tool.

(15) \$499,000 of the health services account appropriation and \$65,000 of the general fund—federal appropriation are provided solely for conducting a study of the employment status of enrollees in the basic health plan and the medical assistance program, pursuant to Engrossed Substitute House Bill No. 3079. If the bill is not enacted by June 30, 2006, the amounts provided in this subsection shall lapse.

Sec. 214. 2005 c 518 s 214 (uncodified) is amended to read as follows:

**FOR THE HUMAN RIGHTS COMMISSION**

General Fund—State Appropriation (FY 2006) . . . . .	(\$2,596,000))
	\$2,779,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$2,634,000))
	\$3,032,000
General Fund—Federal Appropriation . . . . .	(\$1,741,000))
	\$1,321,000
<u>Pension Funding Stabilization Account—State</u>	
Appropriation . . . . .	\$13,000
TOTAL APPROPRIATION . . . . .	(\$6,971,000))
	\$7,145,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The commission shall submit a report by December 1st of each year to the office of financial management and the legislative fiscal committees detailing any changes in existing federal revenues for the remainder of the current fiscal year and changes in projections of federal revenue for the upcoming fiscal year.

(2) \$34,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for a human rights commission investigator to travel to Vancouver once a week to provide complaint intake, outreach, and conduct investigations.

Sec. 215. 2005 c 518 s 215 (uncodified) is amended to read as follows:

**FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS**

<u>Worker and Community Right-to-Know Account—State</u>	
Appropriation . . . . .	\$20,000
Accident Account—State Appropriation . . . . .	(\$16,399,000))
	\$16,452,000
Medical Aid Account—State Appropriation . . . . .	(\$16,398,000))
	\$16,451,000
TOTAL APPROPRIATION . . . . .	(\$32,817,000))

\$32,923,000

**Sec. 216.** 2005 c 518 s 216 (uncodified) is amended to read as follows:

**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

Public Safety and Education Account—State

Appropriation . . . . . ~~(\$19,003,000)~~

\$22,231,000

Death Investigations Account—State Appropriation . . . . . \$148,000

Municipal Criminal Justice Assistance Account—

~~((Private/Local))~~ State Appropriation . . . . . \$460,000

TOTAL APPROPRIATION . . . . . ~~(\$19,611,000)~~

\$22,839,000

The appropriations in this section are subject to the following conditions and limitations:

(1) During the 2005-2007 biennium, the criminal justice training commission is authorized to raise existing fees charged for firearms certification for security guards in excess of the fiscal growth factor established pursuant to RCW 43.135.055, if necessary, to meet the actual costs of conducting the certification programs and the appropriation levels in this section.

(2) \$100,000 of the public safety and education account—state appropriation is provided solely for support of the coalition of small police agencies major crimes task force. The purpose of this task force is to pool its resources and to establish an efficient and cooperative approach in addressing major violent crimes.

(3) Amounts provided within this section are sufficient to implement the provisions of section 2 of House Bill No. 1136 (electronic monitoring system).

(4) \$163,000 of the public safety and education account—state appropriation is provided solely for the implementation of section 4 of Second Substitute House Bill No. 2805 (missing persons). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(5) The commission shall conduct a survey of local law enforcement and state agencies to collect data projecting future cadet enrollments for the 2007-2009 biennium. The commission shall report the findings to the legislature by October 1, 2006.

(6)(a) \$411,000 of the public safety and education account—state appropriation is provided solely for the implementation of Substitute Senate Bill No. 6502 (victim information system). If the bill is not enacted by June 30, 2006, the amount provided in this subsection is provided solely for a contract with the Washington association of sheriffs and police chiefs to implement a statewide automated victim information and notification system. This system shall be added to the city and county jail booking and reporting system. The statewide automated victim information and notification system shall:

(i) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when any of the following events affect an offender housed in any Washington state city or county jail or department of corrections facility: (A) Is transferred or assigned to another facility; (B) is transferred to the custody of another agency outside the state; (C) is given a different security classification; (D) is released on temporary leave or otherwise; (E) is discharged;

(F) has escaped; or (G) has been served with a protective order that was requested by the victim;

(ii) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when an offender has: (A) An upcoming court event where the victim is entitled to be present, if the court information is made available to the statewide automated victim information and notification system administrator at the Washington association of sheriffs and police chiefs; (B) an upcoming parole, pardon, or community supervision hearing; or (C) a change in the offender's parole, probation, or community supervision status including a change in the offender's supervision status or a change in the offender's address;

(iii) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when a sex offender has: (A) Updated his or her profile information with the state sex offender registry; or (B) become noncompliant with the state sex offender registry;

(iv) Permit a registered victim to receive the most recent status report for an offender in any Washington state city and county jail, department of corrections, or sex offender registry by calling the statewide automated victim information and notification system on a toll-free telephone number or by accessing the statewide automated victim information and notification system via a public web site. All registered victims calling the statewide automated victim information and notification system will be given the option to have live operator assistance to help use the program on a twenty-four hour, three hundred sixty-five day per year basis;

(v) Permit a crime victim to register, or registered victim to update, the victim's registration information for the statewide automated victim information and notification system by calling a toll-free telephone number or by accessing a public web site; and

(vi) Ensure that the offender information contained within the statewide automated victim information and notification system is updated frequently to timely notify a crime victim that an offender has been released or discharged or has escaped.

(b) The purpose of the victim information and notification system is to protect the public health, safety, and welfare generally. Creation and implementation of the victim information and notification system does not create a private right of action.

(c) The Washington association of sheriffs and police chiefs will not require automated victim information and notification systems in existence and operational as of the effective date of this act to participate in the statewide system.

(d) Any vendor that the association contracts with to provide the statewide automated victim notification service must deliver the service with a minimum of 99.95-percent availability and with less than an average of one-percent notification errors as a result of the vendor's technology.

(e) The Washington association of sheriffs and police chiefs shall report to the appropriate fiscal and policy committees of the legislature by December 1, 2006, on the availability of federal grant funds to operate the victim information system.

(7) \$132,000 of the public safety and education account—state appropriation is provided solely for the implementation of Substitute Senate Bill



No. 6320 (sex offender information). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(8) \$1,575,000 of the public safety and education account—state appropriation is provided solely for the implementation of sections 103, 104, and 105 of Engrossed Second Substitute Senate Bill No. 6239 (controlled substances). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

\*Sec. 217. 2005 c 518 s 217 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$7,554,000)</del>
	\$7,561,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$7,648,000)</del>
	\$7,681,000
Public Safety and Education Account—State Appropriation. . . . .	<del>(\$27,277,000)</del>
	\$29,519,000
Public Safety and Education Account—Federal Appropriation. . . . .	\$10,000,000
Asbestos Account—State Appropriation . . . . .	<del>(\$808,000)</del>
	\$810,000
Electrical License Account—State Appropriation . . . . .	<del>(\$34,743,000)</del>
	\$35,995,000
Farm Labor Revolving Account—Private/Local Appropriation. . . . .	\$28,000
Worker and Community Right-to-Know Account—State Appropriation. . . . .	<del>(\$1,836,000)</del>
	\$1,827,000
Public Works Administration Account—State Appropriation. . . . .	<del>(\$2,664,000)</del>
	\$2,673,000
Accident Account—State Appropriation . . . . .	<del>(\$206,490,000)</del>
	\$211,084,000
Accident Account—Federal Appropriation . . . . .	\$13,621,000
Medical Aid Account—State Appropriation . . . . .	<del>(\$205,011,000)</del>
	\$208,033,000
Medical Aid Account—Federal Appropriation . . . . .	\$3,185,000
Plumbing Certificate Account—State Appropriation . . . . .	<del>(\$1,657,000)</del>
	\$1,730,000
Pressure Systems Safety Account—State Appropriation. . . . .	<del>(\$3,324,000)</del>
	\$3,357,000
<u>Pension Funding Stabilization Account—State</u> <u>Appropriation. . . . .</u>	\$31,000
TOTAL APPROPRIATION . . . . .	<del>(\$525,846,000)</del>
	\$537,135,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$700,000 of the accident account—state appropriation and \$699,000 of the medical aid account—state appropriation are provided solely for the construction of a computer system to collect data from self-insured employers and are contingent on the passage of Substitute House Bill No. 1310 (workers compensation reporting) on mandatory electronic data reporting by self-insured employers. If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(2) (~~(\$27,227,000)~~) \$29,283,000 of the public safety and education account—state appropriation, and \$10,000,000 of the public safety and education account—federal appropriation are provided solely for the crime victims' compensation program, subject to the following conditions:

(a) Reimbursement shall be provided throughout the 2005-2007 biennium for full reimbursement of sexual assault forensic exams at workers' compensation rates; (~~and~~)

(b) Reimbursement shall be provided throughout fiscal year 2007 for full reimbursement of mental health care at workers' compensation rates; and

(c) In accordance with RCW 7.68.015, it is the policy of the state that the department of labor and industries operate the crime victims' compensation program within the amounts provided for this program in this subsection.

(3) \$200,000 of the accident account—state appropriation is provided solely to reimburse the department of agriculture for the agricultural worker pesticide handling and application training program.

(4) \$71,000 of the medical aid account—state appropriation and \$71,000 of the accident account—state appropriation are provided solely for the review of payment of medical bills and authorization for medical procedures by self-insurers.

(5) The department is required to participate in the health technology assessment program required in section 213(6) of this act.

(6) The department is also required to participate in the joint health purchasing project described in section 213(7) of this act.

(7) \$35,000 of the general fund—state appropriation for fiscal year 2006 and \$8,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Substitute House Bill No. 1393 (older mobile homes). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(8) \$182,000 of the accident account—state appropriation and \$623,000 of the medical aid account—state appropriation are provided solely to (~~expand the Spokane center of occupational health and education to include Yakima county. The Spokane center of occupational health will recruit and train approximately one hundred sixty physicians in Yakima county on best practices for occupational medicine and work with labor and business to improve quality and outcomes of medical care provided to injured workers~~) (a) expand services in the centers of occupational health and education (COHE) in Spokane and Renton; (b) add two additional COHE locations in the state; and (c) include Yakima county in the Spokane COHE.

(9) \$158,000 of the accident account—state appropriation and \$158,000 of the medical aid account—state appropriation are provided solely to implement Substitute House Bill No. 1856 (annual audits of the state industrial insurance

fund). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(10) The department shall delay the costs associated with implementation of phase II of its indirect cost allocation plan for the public works administration account until July 1, 2007.

(11) \$236,000 of the public safety and education account—state is provided solely for fiscal year 2007 to implement House Bill No. 2612 (failure to secure a load). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(12) \$83,000 of the electrical license account—state is provided solely for fiscal year 2007 to implement Substitute House Bill No. 1841 (electrical trainees). If the bill is not enacted by June 30, 2006 the amount provided in this subsection shall lapse.

**(13) \$345,000 of the accident account—state appropriation and \$61,000 of the medical aid account—state appropriation are provided solely for costs pursuant to Engrossed House Bill No. 2623 (agricultural workers). If the bill is not enacted by June 30, 2006, the amounts provided for this purpose shall lapse.**

(14) The department shall prepare a report identifying programs funded either directly or indirectly from state workers' compensation funds. The report shall describe the amounts and percentages of funds used to administer identified programs, as well as the criteria used to make funding decisions. In consultation with the workers' compensation advisory committee, the department shall also develop recommendations for equitable, adequate, and stable funding sources for identified programs. The department shall submit the report and the recommendations to the house of representatives committees on appropriations and commerce and labor, or their successor committees, and the senate committees on ways and means and labor, commerce, research and development, or their successor committees, by December 1, 2006.

(15) \$61,000 of the electrical license account—state appropriation and \$55,000 of the plumbing certificate account—state appropriation are provided solely to implement Substitute Senate Bill No. 6225 (domestic water pumping systems). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(16) \$26,000 of the accident account—state appropriation and \$5,000 of the medical aid account—state appropriation are provided solely to implement Substitute Senate Bill No. 6185 (family and medical leave act). If the bill not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**(17) \$10,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the department to prepare informational brochures summarizing RCW 60.04.250, with an emphasis on providing residential homeowners and small business owners with information about contracting for new construction or remodeling construction work, including information about the scope of coverage of contractor bonding, and how lien procedures work, to be made available for local government building departments, on the department's web page, and other locations determined by the department for distribution.**

\*Sec. 217 was partially vetoed. See message at end of chapter.

**Sec. 218.** 2005 c 518 s 218 (uncodified) is amended to read as follows:

**FOR THE INDETERMINATE SENTENCE REVIEW BOARD**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,092,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$1,096,000)</del>
	<u>\$1,571,000</u>
<u>Pension Funding Stabilization Account—State</u>	
Appropriation . . . . .	\$4,000
TOTAL APPROPRIATION . . . . .	<del>(\$2,188,000)</del>
	<u>\$2,667,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$374,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Engrossed House Bill No. 3261 (sentence review). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

Sec. 219. 2005 c 518 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

(1) HEADQUARTERS

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$1,918,000)</del>
	<u>\$1,917,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$1,880,000)</del>
	<u>\$1,982,000</u>
Charitable, Educational, Penal, and Reformatory	
Institutions Account—State Appropriation . . . . .	\$10,000
<u>Pension Funding Stabilization Account—State</u>	
Appropriation . . . . .	\$10,000
TOTAL APPROPRIATION . . . . .	<del>(\$3,808,000)</del>
	<u>\$3,919,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

- (a) The department shall participate in the health technology assessment program required in section 213(6) of this act.
- (b) The department shall participate in the joint health purchasing project described in section 213(7) of this act.
- (c) \$25,000 of the general fund—state appropriation for fiscal year 2006 is provided for the department to conduct a feasibility study of a veterans' cemetery in eastern Washington. The study shall include location, acquisition costs, projection of continued operations costs, and revenue sources for acquisition and operations. A final report of the findings shall be submitted no later than December 15, 2005.
- (d) \$70,000 of the general fund—state appropriation for fiscal year 2006 and \$70,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for implementation of Senate Bill No. 5539 (veterans conservation corps). If Senate Bill No. 5539 is not enacted by June 30, 2005, these amounts shall lapse.

(2) FIELD SERVICES

General Fund—State Appropriation (FY 2006) . . . . .	\$2,811,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$2,809,000)</del>

	<u>\$3,317,000</u>
General Fund—Federal Appropriation . . . . .	\$343,000
General Fund—Private/Local Appropriation . . . . .	<del>(\$2,016,000)</del>
	<u>\$1,367,000</u>
<u>Veterans Estate Management Account—Local</u>	
<u>Appropriation</u> . . . . .	\$651,000
<u>Veterans' Innovations Program Account—State</u>	
<u>Appropriation</u> . . . . .	\$2,000,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$11,000
TOTAL APPROPRIATION . . . . .	<del>(\$7,979,000)</del>
	<u>\$10,500,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) \$25,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the development of a public service announcement outreach campaign directed at returning veterans from Operation Iraqi Freedom and Operation Enduring Freedom.

(b) \$75,000 of the general fund—state appropriation for fiscal year 2006 and \$95,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the post traumatic stress counseling program expansion to address the needs of veterans returning from Iraq and Afghanistan.

(c) \$2,000,000 of the veterans' innovations program account—state appropriation for fiscal year 2007 is provided solely to implement Second Substitute House Bill No. 2754 (veterans' innovations program). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(3) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$8,259,000)</del>
	<u>\$5,283,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$8,238,000)</del>
	<u>\$5,946,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$31,436,000)</del>
	<u>\$36,114,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$26,338,000)</del>
	<u>\$28,830,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$187,000
TOTAL APPROPRIATION . . . . .	<del>(\$74,271,000)</del>
	<u>\$76,360,000</u>

**Sec. 220.** 2005 c 518 s 220 (uncodified) is amended to read as follows:

**FOR THE HOME CARE QUALITY AUTHORITY**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$919,000)</del>
	<u>\$724,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$1,093,000)</del>
	<u>\$1,401,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$1,034,000)</del>
	<u>\$1,167,000</u>

Pension Funding Stabilization Account—State

Appropriation . . . . .	\$2,000
TOTAL APPROPRIATION . . . . .	(((\$3,046,000))
	<u>\$3,294,000</u>

The appropriations in this section are subject to the following conditions and limitations: The legislature encourages the home care quality authority to move forward with implementation of a statewide referral registry system by use of any existing and future agency administrative moneys and by seeking other means of funding, including grants and additional funding resources.

\*Sec. 221. 2005 c 518 s 221 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

General Fund—State Appropriation (FY 2006) . . . . .	(((\$64,090,000))
	<u>\$62,835,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(((\$64,485,000))
	<u>\$70,954,000</u>
General Fund—Federal Appropriation . . . . .	(((\$455,467,000))
	<u>\$477,467,000</u>
General Fund—Private/Local Appropriation . . . . .	(((\$101,479,000))
	<u>\$104,867,000</u>
Hospital Commission Account—State Appropriation . . . . .	(((\$2,615,000))
	<u>\$1,521,000</u>
Health Professions Account—State Appropriation . . . . .	(((\$51,659,000))
	<u>\$53,975,000</u>
Aquatic Lands Enhancement Account—State	
Appropriation . . . . .	\$600,000
Emergency Medical Services and Trauma Care Systems	
Trust Account—State Appropriation . . . . .	(((\$12,578,000))
	<u>\$12,579,000</u>
Safe Drinking Water Account—State Appropriation . . . . .	(((\$2,907,000))
	<u>\$2,917,000</u>
Drinking Water Assistance Account—Federal	
Appropriation . . . . .	(((\$16,158,000))
	<u>\$16,179,000</u>
Waterworks Operator Certification—State	
Appropriation . . . . .	(((\$1,098,000))
	<u>\$1,099,000</u>
Drinking Water Assistance Administrative Account—	
State Appropriation . . . . .	\$326,000
Water Quality Account—State Appropriation . . . . .	(((\$3,680,000))
	<u>\$3,693,000</u>
State Toxics Control Account—State Appropriation . . . . .	(((\$2,843,000))
	<u>\$2,852,000</u>
Medical Test Site Licensure Account—State	
Appropriation . . . . .	(((\$1,790,000))
	<u>\$1,798,000</u>
Youth Tobacco Prevention Account—State Appropriation . . . . .	\$1,806,000
Public Health Supplemental Account—Private/Local	
Appropriation . . . . .	\$3,306,000

Accident Account—State Appropriation . . . . .	(\$275,000)
	<u>\$277,000</u>
Medical Aid Account—State Appropriation . . . . .	\$46,000
Health Services Account—State Appropriation . . . . .	(\$38,101,000)
	<u>\$41,942,000</u>
Tobacco Prevention and Control Account—State Appropriation. . . . .	(\$52,677,000)
	<u>\$52,684,000</u>
<del>(Patient Safety Account—State Appropriation . . . . .</del>	<del>(\$641,000)</del>
<u>Pension Funding Stabilization Account—State Appropriation. . . . .</u>	<u>\$144,000</u>
TOTAL APPROPRIATION . . . . .	(\$878,625,000)
	<u>\$913,867,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The department or any successor agency is authorized to raise existing fees charged for the clandestine drug lab program, the drinking water program, radioactive materials license fees, X-ray facility registration fees, shellfish commercial paralytic shellfish poisoning fees, the water recreation program, the wastewater management program, newborn specialty clinic fees, acute care hospitals, psychiatric hospitals, child birth centers, correctional medical facilities, alcoholism hospitals, and the midwifery program, in excess of the fiscal growth factor pursuant to RCW 43.135.055, if necessary, to meet the actual costs of conducting business and the appropriation levels in this section. However, the department may not raise existing fees charged for the midwifery program by more than twenty percent over the biennium and from July 1, 2006, through June 30, 2007, the annual fees for new or renewed licenses shall be no greater than \$450.

(2) \$1,363,000 of the general fund—state fiscal year 2006 appropriation, \$1,363,000 of the general fund—state fiscal year 2007 appropriation, and \$676,000 of the general fund—local appropriation are provided solely for the implementation of the Puget Sound conservation and recovery plan and agency action items, DOH-01, DOH-02, DOH-03, and DOH-04.

(3) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(4) \$383,000 of the general fund—state appropriation for fiscal year 2006, \$317,000 of the general fund—state appropriation for fiscal year 2007, and \$600,000 of the aquatic lands enhancement account appropriation are provided solely to assist counties in marine areas complete on-site sewage system management plans and electronic data bases to inventory on-site sewage systems.

(5) \$60,000 of the health professions account appropriation is provided solely for implementation of Engrossed Substitute Senate Bill No. 5470 (prescription importation). If Engrossed Substitute Senate Bill No. 5470 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6) \$268,000 of the health professions account appropriation is provided solely for implementation of Engrossed Substitute House Bill No. 2266 (precursor drugs). If Engrossed Substitute House Bill No. 2266 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(7) \$42,000 of the health professions account appropriation is provided solely for implementation of Second Substitute House Bill No. 1168 (prescription reimportation). If Second Substitute House Bill No. 1168 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~(8) (\$82,000 of the general fund—state appropriation for fiscal year 2006, \$52,000 of the general fund—state appropriation for fiscal year 2007, and \$641,000 of the patient safety account appropriation are provided solely for implementation of Engrossed Second Substitute House Bill No. 1291 (patient safety practices). If Engrossed Second Substitute House Bill No. 1291 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.~~

~~(9))~~ \$100,000 of the general fund—state appropriation for fiscal year 2006 and ~~(\$200,000)~~ \$620,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the department to implement a multi-year pilot project covering Adams, Chelan, Douglas, Grant, Okanogan, Skagit, and Franklin counties for persons with household income at or below 200 percent of the federal poverty level who are ineligible for family planning services through the medicaid program. Individuals who will be served under the pilot program include women who have never been pregnant, are not currently pregnant, or are beyond the family planning extension period allowed for first steps program eligibility. It is anticipated that the pilot program will serve ~~((approximately))~~ over 500 women. The department will provide a preliminary report to the appropriate committees of the legislature by January 1, 2006, and a final report by January 1, 2007.

~~((10))~~ (9) \$462,000 of the general fund—private/local appropriation is provided solely to support specialty clinics that provide treatment services to children that are identified with one of the five heritable or metabolic disorders added to the newborn screening panel by the state board of health in 2003.

~~((11))~~ (10) \$125,000 of the general fund—state appropriation for fiscal year 2006 and \$125,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the farmers' market nutrition program of the special supplemental nutrition program for women, infants and children. It is anticipated that these funds will enable the department to expand 2004 participation levels by 8,000 persons annually.

~~((12))~~ (11) \$100,000 of the general fund—state appropriation for fiscal year 2006 and ~~(\$100,000)~~ \$200,000 of the general fund—state appropriation



for fiscal year 2007 are provided solely for the infertility prevention project to implement effective prevention strategies designed to reduce the prevalence of chlamydia and gonorrhea and their potentially debilitating complications.

~~((13))~~ (12) With funds appropriated in this section, the medical advisory committee to the early detection breast and cervical cancer screening program shall study and recommend strategies for adopting emerging technologies and best practices from the national, state, and local levels in the field of early prevention and detection for breast and cervical cancer, and assist the early detection breast and cervical cancer screening program in implementing policy that follows the best practices of high quality health care for clinical, diagnostic, preventative, pathologic, radiological, and oncology services. The committee will report its recommendations to the legislature by December 15, 2006.

~~((14))~~ (13) \$25,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to develop and implement best practices in preventative health care for children. The department and the kids get care program of public health - Seattle and King county will work in collaboration with local health care agencies to disseminate strategic interventions that are focused on evidence-based best practices for improving health outcomes in children and saving health-care costs.

~~((15))~~ (14) \$48,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 1075 (nursing quality commission). If Substitute House Bill No. 1075 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((16))~~ (15) \$74,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 1137 (physical therapy). If Substitute House Bill No. 1137 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((17))~~ (16) \$109,000 of the health professions account appropriation is provided solely for implementation of House Bill No. 1546 (naturopathic physicians). If House Bill No. 1546 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((18))~~ (17) \$80,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 1689 (dental health services). If Substitute House Bill No. 1689 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((19))~~ (18) \$42,000 of the general fund—state appropriation for fiscal year 2006 and \$24,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for implementation of Engrossed Second Substitute House Bill No. 1605 (soil contamination). If Engrossed Second Substitute House Bill No. 1605 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((20))~~ (19) \$40,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for implementation of Substitute House Bill No. 1951 (vision exams for children). If Substitute House Bill No. 1951 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((21))~~ (20) \$43,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for implementation of Engrossed Senate Bill No. 5049 (mold in residential units). If Engrossed Senate Bill No. 5049 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((22))~~ (21) \$26,000 of the general fund—state appropriation for fiscal year 2006 and \$12,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for implementation of Senate Bill No. 5311 (autism task force). If Senate Bill No. 5311 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((23))~~ (22) \$168,000 of the health services account appropriation is provided solely for a two-year pilot project under which parents have the option to choose vaccines which do not contain mercury.

(23) \$750,000 of the health services account—state appropriation is provided solely to add one or more combination vaccines to the universal access to childhood immunizations program. The vaccine or vaccines to be added shall be selected by the department after a clinical and cost-effectiveness review by the state vaccine advisory committee. The review shall consider at least the following criteria: (a) The likelihood that use of the combination vaccine will increase childhood immunization rates; (b) the vaccine's relative effectiveness, and the prevalence and seriousness of the conditions it prevents; (c) the relative cost of the vaccine, after accounting for the extent to which it would replace some single injection antigens; and (d) the extent to which the vaccine is mercury-free. The projected 2007-09 state cost of the combination vaccine or vaccines added pursuant to this review shall not exceed \$3,000,000.

(24) \$151,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for a grant to the Kitsap county health district. The funding shall be used to increase the number of women who receive professional support after delivery through a home visit or telephone call by the county health district. In order to receive the funds, Kitsap county health district must provide an equal amount of matching funds.

**(25) \$13,000 of the general fund—state appropriation for fiscal year 2007 and \$208,000 of the health professions account appropriation are provided solely for implementation of Substitute House Bill No. 2431 (background checks/health care). If Substitute House Bill No. 2431 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.**

(26) \$324,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of Second Substitute House Bill No. 2342 (health care declarations). If Second Substitute House Bill No. 2342 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(27) \$432,000 of the general fund—state appropriation for fiscal year 2007 and \$21,000 of the health professions account appropriation are provided solely for implementation of Second Substitute House Bill No. 2292 (health care liability reform) including sections 105 through 112 of the bill. If Second Substitute House Bill No. 2292 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(28) \$96,000 of the health professions account appropriation is provided solely for implementation of Substitute House Bill No. 2974 (health professions discipline). If Substitute House Bill No. 2974 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(29) The department of health shall evaluate alternative models for funding the regulation of the health professions, including charging an equivalent fee for all licensed, certified, and registered health professions. The department will provide a report to the appropriate committees of the legislature on the potential

fiscal and programmatic benefits and challenges of such alternative models by December 1, 2006.

(30) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Substitute House Bill No. 2985 (foster care health unit). If Substitute House Bill No. 2985 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(31) \$54,000 of the general fund—state appropriation for fiscal year 2007 and \$183,000 of the health professions account appropriation are provided solely for implementation of Engrossed Senate Bill No. 6194 (multicultural education/health). If Engrossed Senate Bill No. 6194 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(32) \$118,000 of the health professions account appropriation is provided solely for implementation of Engrossed Substitute House Bill No. 1850. If Engrossed Substitute House Bill No. 1850 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(33) \$173,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the state board of health to provide staff support to the governor's interagency committee on health disparities, as provided in Senate Bill No. 6197. If Senate Bill No. 6197 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(34) \$119,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the state board of health to conduct health impact assessments, as provided in Senate Bill No. 6197. If Senate Bill No. 6197 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(35) \$327,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the department to conduct a survey of health professional demographics and practice patterns, as provided in Senate Bill No. 6193. If Senate Bill No. 6193 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(36) \$200,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to develop and maintain a database showing the statewide incidence and provenance of hepatitis C infections, and to conduct a public information campaign on transmission, prevention, detection, and treatment of the disease.

(37) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the department to implement a prostate cancer public awareness and education campaign. The campaign shall place special emphasis on early education for men over forty, African-American men, and men who are at high risk for prostate cancer according to the guidelines of the American cancer society.

(38) \$130,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of Engrossed Second Substitute Senate Bill No. 6239 (controlled substances) including sections 201 through 203 of the bill. If Engrossed Second Substitute Senate Bill No. 6239 is not enacted by June 30, 2006, the amount provide in this subsection shall lapse.

(39) Appropriations in this section assume savings attributable to House Bill No. 2632 (HIV insurance coverage program).

(40) \$27,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Engrossed Substitute House Bill No. 2884

(reclaimed water). If the bill is not enacted by June 30, 2006, these funds shall be used solely for the department to coordinate with the department of ecology or development and adoption of rules relating to reclaimed water.

\*Sec. 221 was partially vetoed. See message at end of chapter.

Sec. 222. 2005 c 518 s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

The appropriations to the department of corrections in this act shall be expended for the programs and in the amounts specified herein. However, after May 1, 2006, after approval by the director of financial management and unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2006 between programs. The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing seven days prior to approving any deviations from appropriation levels. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by budget unit and appropriation, both before and after any allotment modifications or transfers.

(1) ADMINISTRATION AND SUPPORT SERVICES

General Fund—State Appropriation (FY 2006) . . . . .	(\$52,282,000)
	\$46,867,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$41,838,000)
	\$59,681,000
General Fund—Federal Appropriation . . . . .	\$1,022,000
Violence Reduction and Drug Enforcement Account—	
State Appropriation . . . . .	\$26,000
Public Safety and Education Account—State	
Appropriation . . . . .	(\$2,768,000)
	\$2,774,000
<del>((Industrial Insurance Account—State Appropriation . . . . .</del>	<del>(\$1,000)</del>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$245,000</u>
TOTAL APPROPRIATION . . . . .	(\$97,937,000)
	\$110,615,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) ~~(\$11,250,000)~~ \$5,250,000 of the general fund—state appropriation for fiscal year 2006 ~~(is)~~ and \$17,250,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for phase three of the department's offender-based tracking system replacement project. This amount is conditioned on the department satisfying the requirements of section 902 of this act.

(b) \$26,000 of the general fund—state appropriation for fiscal year 2006 and \$44,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Substitute House Bill No. 1402

(offender travel or transfer). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(c) \$35,000 of the general fund—state appropriation for the fiscal year 2007 is provided solely for the establishment and support of a statewide council on mentally ill offenders that includes as its members representatives of community-based mental health treatment programs, current or former judicial officers, and directors and commanders of city and county jails and state prison facilities. The council will begin to investigate and promote cost-effective approaches to meeting the long-term needs of adults and juveniles with mental disorders who have a history of offending or who are at-risk of offending, including their mental health, physiological, housing, employment, and job training needs.

(2) CORRECTIONAL OPERATIONS

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$516,992,000</del> ))
	<u>\$524,561,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$545,816,000</del> ))
	<u>\$555,895,000</u>
General Fund—Federal Appropriation . . . . .	(( <del>\$4,424,000</del> ))
	<u>\$3,447,000</u>
Violence Reduction and Drug Enforcement Account—	
State Appropriation . . . . .	\$2,984,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$2,269,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$1,070,216,000</del> ))
	<u>\$1,089,156,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

(a) For the acquisition of properties and facilities, the department of corrections is authorized to enter into financial contracts, paid for from operating resources, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. This authority applies to the following: Lease-develop with the option to purchase or lease-purchase work release beds in facilities throughout the state for \$8,561,000.

(b) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as recovery of costs.

(c) The department shall provide funding for the pet partnership program at the Washington corrections center for women at a level at least equal to that provided in the 1995-97 biennium.

(d) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(e) During the 2005-07 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to

inmates, the department shall select the contractor or contractors primarily based on the following factors: (i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account.

(f) The department shall participation in the health technology assessment program required in section 213(6) of this act. The department shall also participate in the joint health purchasing project described in section 213(7) of this act.

(g) The Harborview medical center shall provide inpatient and outpatient hospital services to offenders confined in department of corrections facilities at a rate no greater than the average rate that the department has negotiated with other community hospitals in Washington state.

(h) \$1,060,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of section 3 of Second Substitute Senate Bill No. 6319 (failure to register). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(i) \$384,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of Second Substitute Senate Bill No. 6460 (crimes with sexual motivation). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(j) \$91,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of section 2 of Second Substitute Senate Bill No. 6172 (possession of child pornography). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(k) \$763,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of sections 102, 301, and 302 of Engrossed Second Substitute Senate Bill No. 6239 (controlled substances). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(3) COMMUNITY SUPERVISION

General Fund—State Appropriation (FY 2006) . . . . .	(\$82,210,000)
	\$89,217,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$81,646,000)
	\$92,477,000
Public Safety and Education Account—State	
Appropriation . . . . .	(\$16,736,000)
	\$16,796,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	\$449,000
TOTAL APPROPRIATION . . . . .	(\$180,592,000)
	\$198,939,000

The appropriations in this subsection are subject to the following conditions and limitations:

(a) The department shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and

correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$268,000 of the general fund—state appropriation for fiscal year 2006 and \$484,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Substitute House Bill No. 1402 (offender travel or transfer). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(c) \$122,000 of the general fund—state appropriation for fiscal year 2006 and \$82,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of House Bill No. 1136 (electronic monitoring system). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(d) \$59,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of section 4 of Second Substitute Senate Bill No. 6319 (failure to register). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(e) \$666,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of section 303 of Engrossed Second Substitute Senate Bill No. 6239 (controlled substances). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(4) CORRECTIONAL INDUSTRIES	
General Fund—State Appropriation (FY 2006) . . . . .	\$838,000
General Fund—State Appropriation (FY 2007) . . . . .	\$882,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	<u>\$3,000</u>
TOTAL APPROPRIATION . . . . .	<u>(\$1,720,000)</u>
	\$1,723,000

The appropriations in this subsection are subject to the following conditions and limitations: \$110,000 of the general fund—state appropriation for fiscal year 2006 and \$110,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS	
General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$33,839,000)</del>
	<u>\$37,289,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$33,838,000)</del>
	<u>\$38,662,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$67,677,000)</del>
	<u>\$75,951,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: \$130,000 of the general fund—state appropriation for fiscal year 2006 and \$196,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for expenditures related to the *Farrakhan v. Locke* litigation.

Sec. 223. 2005 c 518 s 223 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SERVICES FOR THE BLIND**

General Fund—State Appropriation (FY 2006) . . . . .	(\$1,887,000)
	<u>\$2,037,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$1,939,000)
	<u>\$1,962,000</u>
General Fund—Federal Appropriation . . . . .	(\$15,326,000)
	<u>\$15,362,000</u>
General Fund—Private/Local Appropriation . . . . .	\$80,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	<u>\$5,000</u>
TOTAL APPROPRIATION . . . . .	(\$19,232,000)
	<u>\$19,446,000</u>

Sec. 224. 2005 c 518 s 224 (uncodified) is amended to read as follows:

**FOR THE SENTENCING GUIDELINES COMMISSION**

General Fund—State Appropriation (FY 2006) . . . . .	\$864,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$861,000)
	<u>\$863,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	<u>\$4,000</u>
TOTAL APPROPRIATION . . . . .	(\$1,725,000)
	<u>\$1,731,000</u>

Sec. 225. 2005 c 518 s 225 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

General Fund—State Appropriation (FY 2006) . . . . .	\$60,000
General Fund—State Appropriation (FY 2007) . . . . .	\$60,000
General Fund—Federal Appropriation . . . . .	(\$259,865,000)
	<u>\$260,228,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$31,857,000)
	<u>\$31,966,000</u>
Unemployment Compensation Administration Account—	
Federal Appropriation . . . . .	(\$199,217,000)
	<u>\$200,541,000</u>
Administrative Contingency Account—State	
Appropriation . . . . .	(\$14,946,000)
	<u>\$16,866,000</u>
Employment Service Administrative Account—State	
Appropriation . . . . .	(\$24,411,000)
	<u>\$24,491,000</u>
TOTAL APPROPRIATION . . . . .	(\$530,416,000)
	<u>\$534,212,000</u>

The appropriations in this subsection are subject to the following conditions and limitations:

- (1) \$2,087,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the Social Security Act (Reed Act). This amount is provided to replace obsolete information technology infrastructure.



(2) \$12,735,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the Social Security Act (Reed Act). This amount is authorized for state choice administrative functions. The department shall submit recommendations by September 1, 2007, to the office of financial management and the legislative fiscal committees for options reducing the costs of the state choice administrative functions for the 2007-2009 biennium. If these options require any statutory changes, the department shall submit agency request legislation to the appropriate legislative policy committees and fiscal committees by December 15, 2007.

(3) \$2,300,000 of the unemployment compensation administration account—federal appropriation is provided from amounts made available to the state by section 903(d) of the Social Security Act (Reed Act). This amount is authorized to continue implementation of chapter 4, Laws of 2003 2nd sp. sess. and for implementation costs relating to Engrossed House Bill No. 2255 (unemployment insurance).

(4) \$4,578,000 of the unemployment compensation administration account—federal appropriation is provided from funds made available to the state by section 903(d) of the Social Security Act (Reed Act). These funds are authorized to provide direct services to unemployment insurance claimants and providing job search review.

**PART III  
NATURAL RESOURCES**

**Sec. 301.** 2005 c 518 s 301 (uncodified) is amended to read as follows:

**FOR THE COLUMBIA RIVER GORGE COMMISSION**

General Fund—State Appropriation (FY 2006) . . . . .	\$471,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$478,000)</del>
	<u>\$479,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$859,000)</del>
	<u>\$862,000</u>
<b>Pension Funding Stabilization Account—State</b>	
Appropriation . . . . .	\$2,000
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$1,808,000)</b></del>
	<u><b>\$1,814,000</b></u>

**\*Sec. 302.** 2005 c 518 s 302 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$40,648,000)</del>
	<u>\$40,744,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$40,344,000)</del>
	<u>\$44,131,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$73,911,000)</del>
	<u>\$74,678,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$13,287,000)</del>
	<u>\$13,290,000</u>
Special Grass Seed Burning Research Account—State Appropriation . . . . .	\$14,000

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Reclamation Account—State Appropriation . . . . .	(\$2,646,000)
	<u>\$2,778,000</u>
Flood Control Assistance Account—State Appropriation. . . . .	(\$3,084,000)
	<u>\$3,422,000</u>
State Emergency Water Projects Revolving Account—State Appropriation . . . . .	(\$1,456,000)
	<u>\$1,312,000</u>
Waste Reduction/Recycling/Litter Control—State Appropriation. . . . .	(\$15,067,000)
	<u>\$15,081,000</u>
State Drought Preparedness Account—State Appropriation. . . . .	(\$221,000)
	<u>\$225,000</u>
State and Local Improvements Revolving Account (Water Supply Facilities)—State Appropriation. . . . .	(\$384,000)
	<u>\$386,000</u>
Vessel Response Account—State Appropriation . . . . .	\$2,876,000
Site Closure Account—State Appropriation. . . . .	(\$655,000)
	<u>\$656,000</u>
Water Quality Account—State Appropriation . . . . .	(\$28,021,000)
	<u>\$28,085,000</u>
Wood Stove Education and Enforcement Account—State Appropriation . . . . .	\$357,000
Worker and Community Right-to-Know Account—State Appropriation . . . . .	(\$2,142,000)
	<u>\$2,153,000</u>
State Toxics Control Account—State Appropriation . . . . .	(\$78,169,000)
	<u>\$84,319,000</u>
State Toxics Control Account—Private/Local Appropriation. . . . .	(\$379,000)
	<u>\$380,000</u>
Local Toxics Control Account—State Appropriation. . . . .	(\$5,258,000)
	<u>\$5,424,000</u>
Water Quality Permit Account—State Appropriation . . . . .	(\$31,909,000)
	<u>\$32,468,000</u>
Underground Storage Tank Account—State Appropriation . . . . .	(\$2,883,000)
	<u>\$2,889,000</u>
Environmental Excellence Account—State Appropriation . . . . .	\$504,000
Biosolids Permit Account—State Appropriation . . . . .	(\$851,000)
	<u>\$853,000</u>
Hazardous Waste Assistance Account—State Appropriation. . . . .	(\$5,153,000)
	<u>\$5,171,000</u>
Air Pollution Control Account—State Appropriation . . . . .	(\$11,199,000)
	<u>\$11,206,000</u>
Oil Spill Prevention Account—State Appropriation . . . . .	(\$10,219,000)
	<u>\$11,078,000</u>

Air Operating Permit Account—State Appropriation . . . . .	(\$2,679,000)
	<u>\$2,922,000</u>
Freshwater Aquatic Weeds Account—State Appropriation. . . . .	(\$2,534,000)
	<u>\$2,144,000</u>
Oil Spill Response Account—State Appropriation . . . . .	\$7,079,000
Metals Mining Account—State Appropriation. . . . .	\$14,000
Water Pollution Control Revolving Account—State Appropriation. . . . .	(\$413,000)
	<u>\$485,000</u>
Water Pollution Control Revolving Account—Federal Appropriation. . . . .	(\$1,995,000)
	<u>\$2,357,000</u>
Freshwater Aquatic Algae Control Account—State Appropriation. . . . .	\$509,000
<u>Pension Funding Stabilization Account—State Appropriation. . . . .</u>	<u>\$186,000</u>
TOTAL APPROPRIATION . . . . .	(\$386,860,000)
	<u>\$400,176,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) \$2,526,196 of the general fund—state appropriation for fiscal year 2006, \$2,526,195 of the general fund—state appropriation for fiscal year 2007, \$366,000 of the general fund—federal appropriation, \$2,581,000 of the state toxics account—state appropriation, \$540,806 of the water quality account—state appropriation, \$3,748,220 of the water quality permit account—state appropriation, and \$705,000 of the oil spill prevention account are provided solely for the implementation of the Puget Sound conservation and recovery plan and agency action items DOE-01, DOE-02, DOE-04, DOE-06, DOE-07, DOE-08, and DOE-09.
- (2) As described in section 129(7) of this act, the department shall make recommendations and report on monitoring activities related to salmon recovery.
- (3) \$4,054,000 of the state toxics control account appropriation is provided solely for methamphetamine lab clean-up activities and for the clean up of toxic waste, focusing on clean up within and around Puget Sound.
- (4) \$170,000 of the oil spill prevention account appropriation is provided solely for implementation of the Puget Sound conservation and recovery plan action item UW-02 through a contract with the University of Washington's sea grant program to continue an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.
- (5) \$2,500,000 of the general fund—state appropriation for fiscal year 2006 and \$2,000,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for shoreline grants to local governments to implement Substitute Senate Bill No. 6012 (shoreline management), chapter 262, Laws of 2003.
- (6) \$156,000 of the general fund—state appropriation for fiscal year 2006 and \$144,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to expand the department's pilot program for processing 401

water quality certification projects to a statewide process and timeline to meet improved permit processing accountability and timelines, which will result in 90 percent of routine certifications occurring within 90 days of application, and acknowledgement of receipt of the application being sent within 10 days.

(7) Fees approved by the department of ecology in the 2005-07 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(8) \$100,000 of the general fund—state appropriation for fiscal year 2006 and \$100,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to support water measurement and water storage components of the Columbia River Initiative Program.

(9) ~~(\$661,000 of the reclamation account—state appropriation is provided solely to implement Senate Bill No. 5831 (well construction fees). If the bill is enacted by June 30, 2005, \$150,000 from the general fund—state appropriation for fiscal year 2006 and \$150,000 from the general fund—state appropriation for fiscal year 2007 provided in this section shall lapse. If the bill is not enacted by June 30, 2005, the amount provided from the reclamation account in this subsection shall lapse.~~

~~(10))~~ \$509,000 of the freshwater aquatic algae control account—state is provided solely for implementation of Engrossed Substitute Senate Bill No. 5699 (aquatic invasive species). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

~~((11))~~ (10) \$250,000 of the state toxics control account—state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 1605 (soil contamination). If the bill is not enacted by June 30, 2005, the amount in this subsection shall lapse.

~~((12))~~ (11) \$200,000 of the water quality account—state appropriation is provided solely for the department to contract with the state conservation commission to provide statewide coordination and support for coordinated resource management.

(12) The department shall assist the office of regulatory assistance in implementing activities consistent with the governor's regulatory improvement program. The department shall support and provide expertise to facilitate, coordinate, and simplify citizen and business interactions so as to improve state regulatory processes involving state, local, and federal stakeholders.

(13) \$196,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Engrossed Substitute House Bill No. 2884 (reclaimed water). If the bill is not enacted by June 30, 2006, the amount provided in this subsection is provided solely to adopt rules in coordination with the department of health for all aspects of reclaimed water including: Industrial and commercial uses, land applications, direct recharge, wetland discharge, surface percolation, constructed wetlands, stream flow augmentation, and graywater use. The department must adopt the rules in a phased approach: The first phase shall be proposed for adoption by June 1, 2007, and shall include the uses of constructed treatment wetlands; and the second phase shall be adopted by December 31, 2010.

(14) \$820,000 of the oil spill prevention account—state appropriation is provided solely to implement Engrossed Second Substitute Senate Bill No. 6244 (oil spill prevention). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(15) \$2,000,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Engrossed Second Substitute House Bill No. 2860 (Columbia river basin). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**(16) \$48,000 of the state toxics control account—state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 1488 (brominated flame retardants). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.**

(17) \$340,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to support development of a wetland mitigation program in Clark county. The program will engage local, state, and federal agencies, private investors, property owners, and others in the creation of one or more wetland banks and other measures to protect habitat functions and values while accommodating urban growth in the region.

(18) \$150,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to develop a pilot water management process that will include three federally recognized treaty Indian tribes.

(19) \$130,000 of the state toxics control account—state appropriation is provided solely to support pesticide container recycling activities in Washington.

(20) \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to Walla Walla county and Columbia county conservation district for habitat conservation planning and related endangered species act assurances for small irrigators and landowners.

(21) To maximize the use of amounts appropriated during this biennium for the clean up of toxic waste, focusing on clean up within and around Puget Sound, the department shall prioritize for this purpose the use of existing staff, additional FTEs added this biennium, temporary project staff, and contracted services.

(22) \$25,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to the department to collaborate with the Wenatchee watershed planning unit and Chelan county for development of a regulatory strategy, as required by the federal clean water act, to control total maximum daily loads of phosphorous to the Wenatchee river. A technically sound plan for managing phosphorous and restoring water quality in the Wenatchee river shall be provided to the appropriate committees of the legislature by July 1, 2008.

(23) \$55,000 of the general fund—state appropriation for fiscal year 2006 and \$150,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to address air quality issues for the Columbia river gorge in cooperation with the state of Oregon.

(24) \$67,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Senate Bill No. 6861 (domestic water users). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(25) \$200,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the restoration of Long lake located in Kitsap county in accordance with the plan approved by the Kitsap county weed control board, the county commissioners, the citizens for improving Long lake, and the department of ecology.

(26) \$150,000 of the local toxics control account—state appropriation is provided solely for the contracting and production of the second phase report for establishing sustainable statewide regional CBRNE/Hazmat response capability. The report will, at a minimum include, a cost-benefit analysis, analysis of sustainable funding options, regional alignment and mutual aid agreements, and administration requirements.

(27) \$250,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for a pilot project that demonstrates the value of long-term management plans for small forest landowners.

\*Sec. 302 was partially vetoed. See message at end of chapter.

Sec. 303. 2005 c 518 s 303 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund—State Appropriation (FY 2006) . . . . .	(\$34,527,000)
	<u>\$35,687,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$34,669,000)
	<u>\$38,334,000</u>
General Fund—Federal Appropriation . . . . .	\$2,738,000
General Fund—Private/Local Appropriation . . . . .	\$71,000
Winter Recreation Program Account—State Appropriation. . . . .	(\$1,110,000)
	<u>\$1,109,000</u>
Off-Road Vehicle Account—State Appropriation . . . . .	(\$225,000)
	<u>\$220,000</u>
Snowmobile Account—State Appropriation . . . . .	\$4,805,000
Aquatic Lands Enhancement Account—State Appropriation. . . . .	\$345,000
Parks Renewal and Stewardship Account—State Appropriation. . . . .	(\$38,480,000)
	<u>\$38,702,000</u>
Public Safety and Education Account—State Appropriation. . . . .	\$47,000
Parks Renewal and Stewardship Account—Private/Local Appropriation. . . . .	\$300,000
<u>Pension Funding Stabilization Account—State Appropriation. . . . .</u>	<u>\$191,000</u>
TOTAL APPROPRIATION . . . . .	(\$117,317,000)
	<u>\$122,549,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Fees approved by the state parks and recreation commission in the 2005-07 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(2) \$79,000 of the general fund—state appropriation for fiscal year 2006 and \$79,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for a grant for the operation of the Northwest avalanche center.

(3) \$191,000 of the aquatic lands enhancement account appropriation is provided solely for the implementation of the Puget Sound conservation and recovery plan and agency action item PRC-02.

(4) \$185,000 of the parks renewal and stewardship account—state appropriation is provided solely to develop a plan for public education and tourist orientation and interpretation at selected state park sites along the route of the ice age floods from Spokane to the Pacific ocean.

(5) Until July 1, 2007, the commission may not charge fees for general park access or parking. Funding of \$500,000 of the general fund—state appropriation for fiscal year 2006 and \$2,636,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to compensate the state parks and recreation commission for lost revenue from general park access or parking fees.

(6) \$750,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for repair and maintenance costs at state parks.

**Sec. 304.** 2005 c 518 s 304 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,401,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$1,414,000)</del>
	<u>\$1,517,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$18,455,000)</del>
	<u>\$18,462,000</u>
General Fund—Private/Local Appropriation . . . . .	\$250,000
Aquatic Lands Enhancement Account—State Appropriation . . . . .	\$254,000
Water Quality Account—State Appropriation . . . . .	\$200,000
Firearms Range Account—State Appropriation . . . . .	\$24,000
Recreation Resources Account—State Appropriation . . . . .	<del>(\$3,176,000)</del>
	<u>\$2,196,000</u>
NOVA Program Account—State Appropriation . . . . .	\$809,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$1,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$25,983,000)</del>
	<u>\$25,114,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) As described in section 129(7) of this act, the department shall make recommendations and report on monitoring activities related to salmon recovery.

(2) \$16,025,000 of the general fund—federal appropriation is provided solely for implementation of the forest and fish agreement rules. These funds will be passed through to the department of natural resources and the department of fish and wildlife.

(3) During the 2005-07 fiscal biennium, any county that purchased land before 1978 for off-road vehicle sports park recreation pursuant to 1972 ex.s. c 153 and 1975 1st ex.s. c 34 may discharge its contractual obligations for state-funded capital improvements on those lands if by no later than June 30, 2007:

(a) It sells on the open market, at the highest price achievable, all such lands and related facilities and equipment. After deducting reasonable expenses for the cost of sale, all remaining funds will be deposited within thirty days of closing to the nonhighway and off-road vehicle activities program account in the office of the state treasurer. Any funds derived from such sale shall be expended in accordance with RCW 46.09.170(2)(d)(ii)(A) in the same manner as funds the

committee receives from RCW 46.09.110 and shall be used for off-road vehicle recreation facilities in areas west of the crest of the Cascade Mountains with preference for developing a new off-road vehicle sports park; or

(b) With the consent of the interagency committee, it gives all such lands and related facilities and equipment to a state or local agency. The state or local agency must agree to make the lands available for purposes related to motorized off-road vehicle recreation. The agency will not be responsible for contractual obligations for previous state-funded capital improvements on those lands. The interagency committee may award a one time noncompetitive grant to the agency for renovation and other capital improvements and for initial operating costs. If a transfer of property under this subsection (b) is not approved prior to June 30, 2006, then the property shall be sold according to (a) of this subsection.

(4) \$125,000 of the general fund—state appropriation for fiscal year 2006 and \$125,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the biodiversity strategy.

(5) \$20,000 of the general fund—state appropriation for fiscal year 2006 and \$20,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for coordination of federal, state, tribal, local, and private aquatic monitoring efforts. The department shall provide a memorandum to the office of financial management and legislative fiscal committees in January of every year which specifies performance measures to reduce redundancy, increase efficiency, and help meet the goals and objectives of the various entities involved in monitoring and if these performance measures were met.

(6) \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Engrossed Substitute Senate Bill No. 5385 (invasive species council). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**Sec. 305.** 2005 c 518 s 305 (uncodified) is amended to read as follows:

**FOR THE ENVIRONMENTAL HEARINGS OFFICE**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,057,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$1,064,000)</del>
	<u>\$1,066,000</u>

Pension Funding Stabilization Account—State

<u>Appropriation</u> . . . . .	\$5,000
TOTAL APPROPRIATION . . . . .	<del>(\$2,121,000)</del>
	<u>\$2,128,000</u>

**Sec. 306.** 2005 c 518 s 306 (uncodified) is amended to read as follows:

**FOR THE CONSERVATION COMMISSION**

General Fund—State Appropriation (FY 2006) . . . . .	\$2,235,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$2,253,000)</del>
	<u>\$2,256,000</u>

General Fund—Federal Appropriation . . . . . \$250,000

Water Quality Account—State Appropriation . . . . .	<del>(\$4,175,000)</del>
	<u>\$4,178,000</u>

Pension Funding Stabilization Account—State

<u>Appropriation</u> . . . . .	\$3,000
TOTAL APPROPRIATION . . . . .	<del>(\$8,663,000)</del>
	<u>\$8,922,000</u>



The appropriations in this section are subject to the following conditions and limitations:

(1) \$197,000 of the general fund—state appropriation for fiscal year 2006 and \$197,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of the Puget Sound conservation and recovery plan and agency action item CC-01.

(2) As described in section 129(7) of this act, the department shall make recommendations and report on monitoring activities related to salmon recovery.

(3) \$100,000 of the general fund—state appropriation for fiscal year 2006 and \$100,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to implement Substitute House Bill No. 1462 (relating to funding for conservation districts). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

\*Sec. 307. 2005 c 518 s 307 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISH AND WILDLIFE**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$45,751,000)</del>
	<u>\$46,692,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$44,545,000)</del>
	<u>\$46,856,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$42,261,000)</del>
	<u>\$49,100,000</u>
General Fund—Private/Local Appropriation . . . . .	<del>(\$36,025,000)</del>
	<u>\$36,089,000</u>
Off-Road Vehicle Account—State Appropriation . . . . .	\$392,000
Aquatic Lands Enhancement Account—State Appropriation. . . . .	<del>(\$5,813,000)</del>
	<u>\$5,820,000</u>
Recreational Fisheries Enhancement—State Appropriation. . . . .	<del>(\$3,547,000)</del>
	<u>\$3,753,000</u>
Warm Water Game Fish Account—State Appropriation . . . . .	<del>(\$2,898,000)</del>
	<u>\$2,904,000</u>
Eastern Washington Pheasant Enhancement Account—State Appropriation . . . . .	\$750,000
Wildlife Account—State Appropriation . . . . .	<del>(\$62,776,000)</del>
	<u>\$61,946,000</u>
Wildlife Account—Federal Appropriation . . . . .	<del>(\$30,966,000)</del>
	<u>\$33,029,000</u>
Wildlife Account—Private/Local Appropriation . . . . .	<del>(\$10,379,000)</del>
	<u>\$10,386,000</u>
Game Special Wildlife Account—State Appropriation . . . . .	<del>(\$2,147,000)</del>
	<u>\$2,883,000</u>
Game Special Wildlife Account—Federal Appropriation . . . . .	<del>(\$8,858,000)</del>
	<u>\$8,863,000</u>
Game Special Wildlife Account—Private/Local Appropriation. . . . .	<del>(\$468,000)</del>
	<u>\$469,000</u>
Public Safety and Education Account—State	

Appropriation . . . . .	\$588,000
Environmental Excellence Account—State Appropriation . . . . .	\$15,000
Regional Fisheries Salmonid Recovery Account—Federal Appropriation . . . . .	<del>(\$1,755,000)</del>
	<u>\$2,755,000</u>
Oil Spill Prevention Account—State Appropriation . . . . .	<del>(\$1,040,000)</del>
	<u>\$1,043,000</u>
<del>(Recreation Resources Account—State Appropriation . . . . .</del>	<del>\$36,000)</del>
Oyster Reserve Land Account—State Appropriation . . . . .	\$411,000
<del>(Freshwater Aquatic Algae Control Account—State Appropriation . . . . .</del>	<del>\$750,000)</del>
<u>Aquatic Invasive Species Prevention Account—State Appropriation . . . . .</u>	<u>\$528,000</u>
<u>Pension Funding Stabilization Account—State Appropriation . . . . .</u>	<u>\$248,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$302,171,000)</del>
	<u>\$315,520,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) As described in section 129(7) of this act, the department shall make recommendations and report on monitoring activities related to salmon recovery.
- (2) \$1,556,714 of the general fund—state appropriation for fiscal year 2006 and \$1,556,713 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of the Puget Sound conservation and recovery plan and agency action items DFW-01 through DFW-06, DFW-08 through DFW-12, and DFW-16.
- (3) \$225,000 of the general fund—state appropriation for fiscal year 2006 and \$225,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of hatchery reform recommendations defined by the hatchery scientific review group.
- (4) The department shall support the activities of the aquatic nuisance species coordination committee to foster state, federal, tribal, and private cooperation on aquatic nuisance species issues. The committee shall strive to prevent the introduction of nonnative aquatic species and to minimize the spread of species that are introduced.
- (5) The department shall emphasize enforcement of laws related to protection of fish habitat and the illegal harvest of salmon and steelhead. Within the amount provided for the agency, the department shall provide support to the department of health to enforce state shellfish harvest laws.
- (6) \$180,000 of the wildlife account—state appropriation is provided solely to test deer and elk for chronic wasting disease and to document the extent of swan lead poisoning. Of this amount, \$65,000 is provided solely to document the extent of swan lead poisoning and to begin environmental cleanup.
- (7) The department shall provide quarterly status reports to the office of financial management regarding the replacement of the Washington interactive licensing system and the implementation of the hydraulic permit management system.

(8) The department shall prepare a report detailing the hydraulic permit approval program applications and project types. The department shall coordinate with the office of financial management in determining the contents of the report. At minimum, the report shall include permits by applicant (name, state, local, federal, tribal entity, etc.), project type (pamphlet, minor, medium, major, extension, revision, etc.) and project location (county and water resource inventory area). The department shall submit the report to the office of financial management and legislative fiscal committees no later than September 1, 2006.

(9) \$700,000 of the general fund—federal appropriation is provided solely for environmental data quality and access projects in support of state salmon recovery efforts. The department shall coordinate planning and implementation of all activities with the department of information services and the governor's salmon recovery office. The department shall make certain that any activity using these funds is consistent with recommendations to be submitted (per section 405, chapter 488, Laws of 2005) in the joint report to the legislature and office of financial management on December 1, 2006.

(10) \$100,000 of the general fund—state appropriation for fiscal year 2006 and \$400,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for a state match to support the Puget Sound nearshore partnership between the department and the U.S. Army Corps of Engineers.

~~((+0))~~ (11) \$72,000 of the state wildlife account—state appropriation is provided solely to implement House Bill No. 1211 (multiple season big game permit). If the bill is not enacted by June 30, 2005, the amount provided in this section shall lapse.

(12) ~~((750,000))~~ \$528,000 of the ~~((freshwater-aquatic-algae-control))~~ aquatic invasive species prevention account—state appropriation is provided solely to implement Senate Bill No. 5699 (preventing and controlling aquatic invasive species and algae). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(13) \$703,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to purchase six purse seine and three gill net licenses to meet the provisions of the United States/Canada salmon treaty.

~~((+5))~~ (14) \$10,000 of the general fund—state appropriation for fiscal year 2006 and \$10,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for chum salmon production at Minter creek hatchery.

~~((+6))~~ (15) \$45,000 of the general fund—federal appropriation for fiscal year 2006 and \$45,000 of the general fund—federal appropriation for fiscal year 2007 are provided solely for the management of Canada goose seasons to increase the number of hunting days in southwest Washington.

~~((+7))~~ (16) \$46,000 of the wildlife account—state appropriation is provided solely to increase the number of courses providing the hunter education training program created in RCW 77.32.155. The department shall reduce the current backlog of applicants waiting to take the training program and provide for a stable supply of training program courses in order to avoid future backlogs.

~~((+8))~~ (17) \$481,000 of the wildlife account—state appropriation is provided solely to continued operation of the Naselle Hatchery during the 2005-07 biennium. This will increase production by 3 million Chinook, 1 million Coho, and 30,000 trout.

~~((20))~~ (18) \$223,000 of the wildlife account—state appropriation is provided solely to implement Senate Bill No. 5227 (wildlife harvest reports). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(19) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for federal match funding for the control of predators that damage livestock, crops, and property.

(20) \$85,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the department to produce educational materials discouraging activities that harm or disturb the spawning beds of salmon and steelhead. Discouraged activities include, but are not limited to, wading on spawning beds, driving motor vehicles on spawning beds, use of high-powered jet or propeller-driven boats across spawning beds, dragging anchors through spawning beds, digging or removing gravel from spawning beds, or any other physical disturbance capable of disturbing spawning fish or damaging or destroying nests of incubating eggs.

(a) The educational materials produced by the department in accordance with this subsection must include, at a minimum, brochures that are to be disseminated to persons applying for fishing and boating licenses statewide. The department must also distribute the brochures widely to retail outlets that cater to outdoor recreation.

(b) The department shall work cooperatively with the tribal fishery managers in the development of the educational materials under this section.

(c) The department shall report to the legislature concerning the effectiveness of this subsection after at least two spawning cycles of salmon and steelhead have occurred.

(21) Within the amounts appropriated in this section, by December 1, 2006, the department shall:

(a) Submit a report detailing the reductions required by omnibus appropriations acts since 1997 for activities supported by the state wildlife fund;

(b) Submit quarterly revenue and expenditure reports for the state wildlife account based on current revenue forecasts to the office of financial management and the fiscal committees of the legislature; and

*(c) Develop a model for forecasting state wildlife account revenues for the next six years. The department shall work with the office of financial management and the department of revenue in developing the model. The forecast shall be provided in an electronic format annually on September 1st to the office of financial management and the fiscal committees of the legislature.*

(22) The department shall assist the office of regulatory assistance in implementing activities consistent with the governor's regulatory improvement program. The department shall support and provide expertise to facilitate, coordinate, and simplify citizen and business interactions so as to improve state regulatory processes involving state, local, and federal stakeholders.

(23) \$408,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for fire suppression and remediation activities on department lands and facilities that were impacted during the 2005 fire season. Funding shall be used for seeding, planting vegetation, fertilizing, weed control, and the establishment of water bars and other erosion control measures.

(24) \$266,000 of the general fund—state appropriation for fiscal year 2006 and \$214,000 of the state wildlife account—state appropriation are provided solely for the continued operation of the Nemah, Mossyrock, Omak, Colville, Arlington, and Columbia Basin hatcheries during the 2005-07 biennium. Funding shall be used to offset the increased cost of utilities, fuel, fish feed, and mitigation obligations previously funded from local sources. The department shall consult with the appropriate natural resource and fiscal committees of the legislature prior to submitting a 2007-09 budget proposal that changes current hatchery operations, production, and/or maintenance to the office of financial management. Unless specifically authorized by the legislature, the department shall not close any hatchery facility currently in operation.

(25) \$43,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Engrossed Substitute Senate Bill No. 5385 (invasive species council). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(26) \$76,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to pay for the added level of fishery sampling and monitoring in the upper Columbia river area as required under the endangered species act and federal court orders.

(27) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for an interagency working group scoping of a study of the sinking of ships as dive attractions. The department of fish and wildlife shall, as approved by the office of financial management, enter into an interagency agreement with the department of natural resources, the state parks and recreation commission, the department of ecology, and the department of community, trade, and economic development to delineate elements of this study. The department of fish and wildlife shall report to the office of financial management and the appropriate committees of the legislature no later than November 15, 2006.

(28) \$500,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to increase fish production levels on a statewide basis at state-operated fish hatcheries. By July 31, 2006, the department shall submit to the appropriate policy and fiscal committees of the legislature an implementation plan that outlines in specific detail how the amount provided in this subsection will be spent in order to increase fish production. The plan will include production implementation timelines, increased production goals, by species, at identified hatcheries that will receive financial assistance, and the amount to be retained by the department for administration and overhead costs, including the purchase of any new equipment. By July 31, 2007, the department shall submit to the appropriate policy and fiscal committees of the legislature a report documenting the increased production levels, using fiscal year 2006 as the base year for comparison purposes. If the department is unable to produce the implementation plan by July 31, 2006, the amount provided in this subsection shall lapse.

(29) \$75,000 of the general fund—state appropriation in fiscal year 2007 is provided solely for the department to prevent impacts to native species by controlling the nonnative nutria population in Skagit county.

(30) \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the northwest straits commission to remove lost and

abandoned fishing nets and crab and shrimp pots that may be dangerous to humans and that unintentionally trap and kill endangered salmon and other aquatic species.

~~((21))~~ (31) \$4,000 of the wildlife account—state appropriation is provided solely to implement House Bill No. 1210 (temporary fishing license). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(32) Within existing appropriations and utilizing all available federal moneys allocated for the crab buy-back program, the department shall develop and implement a crab buy-back program that allows commercial crab fishers the opportunity to sell their licenses back to the state and exit from the crabbing fishery. The department shall report to the office of financial management and the appropriate fiscal committees of the legislature its detailed implementation plan no later than December 1, 2006.

(33) \$660,000 of the general fund—federal appropriation is provided solely to initiate a review of the hydraulic project approval permit rules and to undergo a public process for adoption of new or revised rules that may be needed. Upon completion, the department shall complete a habitat conservation plan for the hydraulic project approval program, and shall seek legislative review prior to adoption of new or revised rules.

(34) \$125,000 of the state wildlife account—state appropriation is provided to implement Engrossed Senate Bill No. 5232 (turkey tags). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

\*Sec. 307 was partially vetoed. See message at end of chapter.

\*Sec. 308. 2005 c 518 s 308 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund—State Appropriation (FY 2006) . . . . .	(\$49,220,000)
	<u>\$40,473,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$43,757,000)
	<u>\$53,999,000</u>
General Fund—Federal Appropriation . . . . .	(\$15,202,000)
	<u>\$15,215,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$1,275,000)
	<u>\$1,276,000</u>
Forest Development Account—State Appropriation . . . . .	(\$54,441,000)
	<u>\$54,697,000</u>
Off-Road Vehicle Account—State Appropriation . . . . .	(\$3,986,000)
	<u>\$4,001,000</u>
Surveys and Maps Account—State Appropriation . . . . .	(\$2,436,000)
	<u>\$2,447,000</u>
Aquatic Lands Enhancement Account—State Appropriation . . . . .	(\$8,344,000)
	<u>\$8,451,000</u>
Resources Management Cost Account—State Appropriation . . . . .	(\$85,941,000)
	<u>\$86,332,000</u>
Surface Mining Reclamation Account—State Appropriation . . . . .	(\$1,841,000)
	<u>\$2,828,000</u>

Disaster Response Account—State	
Appropriation . . . . .	\$5,000,000
Water Quality Account—State Appropriation . . . . .	<del>(\$2,630,000)</del>
	<u>\$2,636,000</u>
Aquatic Land Dredged Material Disposal Site	
Account—State Appropriation . . . . .	<del>(\$652,000)</del>
	<u>\$1,321,000</u>
Natural Resources Conservation Areas Stewardship	
Account—State Appropriation . . . . .	\$34,000
State Toxics Control Account—State Appropriation . . . . .	\$2,155,000
Air Pollution Control Account—State Appropriation . . . . .	<del>(\$555,000)</del>
	<u>\$556,000</u>
Derelict Vessel Removal Account—State Appropriation . . . . .	<del>(\$1,137,000)</del>
	<u>\$1,138,000</u>
Agricultural College Trust Management	
Account—State Appropriation . . . . .	<del>(\$1,962,000)</del>
	<u>\$1,966,000</u>
<u>Pension Funding Stabilization Account—State</u>	
Appropriation . . . . .	\$136,000
TOTAL APPROPRIATION . . . . .	<del>(\$280,568,000)</del>
	<u>\$284,661,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) As described in section 129(7) of this act, the department shall make recommendations and report on monitoring activities related to salmon recovery.

(2) \$18,000 of the general fund—state appropriation for fiscal year 2006, \$18,000 of the general fund—state appropriation for fiscal year 2007, and \$1,652,050 of the aquatic lands enhancement account appropriation are provided solely for the implementation of the Puget Sound conservation and recovery plan and agency action items DNR-01 and DNR-02.

(3) \$138,000 of the resource management cost account—state appropriation is provided solely to implement Engrossed Second Substitute House Bill No. 1896 (geoduck harvest). If the bill is not enacted by June 30, 2005, the amount in the subsection shall lapse.

(4) ~~(\$953,000)~~ \$972,000 of the general fund—state appropriation for fiscal year 2006 and ~~(\$950,000)~~ \$994,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for deposit into the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

(5) ~~(\$10,635,000)~~ \$10,689,000 of the general fund—state appropriation for fiscal year 2006, \$13,635,000 of the general fund—state appropriation for fiscal year 2007, and \$5,000,000 of the disaster response account—state appropriation are provided solely for emergency fire suppression. Of these amounts, up to \$250,000 may be expended for staff and other necessary resources to design and implement a fire data-collection system that includes financial- and performance-management information for fires over 10 acres in size.

None of the general fund and disaster response account amounts provided in this subsection may be used to fund agency indirect and administrative expenses. Agency indirect and administrative costs shall be allocated among the agency's remaining accounts and appropriations.

(6) \$582,000 of the aquatic lands enhancement account appropriation is provided solely for spartina control.

(7) Fees approved by the board of natural resources in the 2005-07 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(8) \$9,000,000 of the general fund—state appropriation for fiscal year ~~((2006))~~ 2007 and \$2,000,000 of the aquatic lands enhancement account—state appropriation are provided solely for the purposes of settling those claims identified in ~~((the consent decree and settlement agreement in))~~ *U.S., et al. v. State of Washington, et al.* Subproceeding No. 89-3 (Shellfish), United States District Court for the Western District of Washington at Seattle, Case No. C70-9213. The expenditure of this appropriation is contingent on ~~((the release of those claims in this subproceeding. In the event that the federal government does not appropriate \$22,000,000 for this purpose by June 30, 2006,))~~ a settlement agreement that includes the state of Washington as a party to the agreement which is fully executed by June 29, 2007, and a consent decree entered by June 29, 2007, by the United States District Court for the Western District of Washington settling and releasing the identified treaty claims to harvest shellfish previously negotiated in the settlement agreement. By June 29, 2007, the release of claims associated with the settlement agreement and consent decree must be fully effective and there must be no unfulfilled contingencies that could cause the settlement agreement or consent decree to be vacated at some future date if not fulfilled. In the event that these contingencies are not met, the amounts provided in this subsection shall lapse.

(9) \$2,155,000 of the state toxics account—state appropriation is provided solely for the department to meet its obligations with the U.S. environmental protection agency for the clean-up of Commencement Bay and other sites.

(10) The department shall not develop the Gull Harbor facility without first submitting a master plan to the appropriate committees of the legislature. The plan shall ensure continued public access to the waterfront. The plan shall also examine alternative locations to the Gull Harbor site that would colocate marine equipment for all state agencies needing water access in Thurston county. The report shall be submitted by December 1, 2006.

(11) \$250,000 of the general fund—state appropriation for fiscal year 2006, \$250,000 of the general fund—state appropriation for fiscal year 2007, and \$500,000 of the resource management cost account—state appropriation are provided solely for a report on the future of Washington forests. The purpose of the report is to examine economic, recreational, and environmental trends influencing the forest products industry and secondary manufacturing sectors in Washington state. The department shall contract with the University of Washington college of forestry resources. The college shall consult with the University of Washington economics department for the section on investment returns from granted lands. The report shall contain the following parts:

(a) An update of the 1992 timber supply study for Washington state that was conducted by the University of Washington. The update may be accomplished



by reviewing the most recent similar data available in existing reports, examining a sample of the original 1992 study sample of lands, and through other existing data sources that may reveal relevant trends and changes since 1992.

(b) An independent assessment of the economic contribution of the forest products industry, and secondary manufacturing sectors, to the state. This assessment will also examine some of the macroeconomic trends likely to affect the industry in the future.

(c) A comparison of the competitive position of Washington's forest products industry globally, and with other leading forest products states, or regions, of the United States. This evaluation should compare the relative tax burden for growing and harvesting timber between the states or regions and the relative cost of adhering to regulations, and identify the competitive advantages of each state or region.

(d) An assessment of the trends and dynamics that commercial and residential development play in the conversion of the state's forests to nonforestry uses. The assessment will involve gathering relevant data, reviewing that data, and analyzing the relationship between development and the conversion of forest land uses.

(e) Recommendations on: (i) Policy changes that would enhance the competitive position of Washington's forest products industry in Washington state; (ii) policy changes that would, to the extent possible, ensure that a productive forest land base continues to be managed for forest products, recreation, and environmental and other public benefits into the future; and (iii) policy changes that would enhance the recreational opportunities on working forest lands in the state.

(f) Based on the information derived from (a) through (d) of this subsection, an assessment of the expected rate of return from state granted lands. This section of the reports shall also review reports prepared by the department over the past ten years that describe the investment returns from granted lands. The review of these previous reports shall compare and critique the methodology and indicators used to report investment returns. The review shall recommend appropriate measures of investment returns from granted lands.

(g) Analyze and recommend policies and programs to assist Cascade foothills area landowners and communities in developing and implementing innovative approaches to retaining traditional forestry while at the same time accommodating new uses that strengthen the economic and natural benefits from forest lands. For the purposes of this section, the Cascade foothills area generally encompasses the nonurbanized lands within the Cascade mountain range and drainages lying between three hundred and three thousand feet above mean sea level, and located within Whatcom, Skagit, Snohomish, King, Pierce, Thurston, and Lewis counties.

(12) \$4,000 of the general fund—state appropriation for fiscal year ~~((2005))~~ 2006 and \$4,000 of the general fund—state appropriation for fiscal year ~~((2006))~~ 2007 are provided solely to compensate the forest board trust for a portion of the lease to the Crescent television improvement district consistent with RCW 79.13.520.

(13) The department shall develop a multiyear work plan and schedule for mapping all applicable areas of the state for landslide hazards and earthquake

hazards. The work plan and schedule shall be based on a carryforward funding level, and shall be submitted to the office of financial management and to the fiscal committees of the legislature by June 30, 2006.

(14) \$654,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for geologic hazard research, activities, and mapping, including earthquake, landslide, and tsunami hazards.

(15) \$397,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the department to work with appropriate stakeholders and state agencies in determining how privately owned lands, in combination with other land ownership such as public and tribal lands, contribute to wildlife habitat. The assessment will also determine how commercial forest, forest lands on the urban fringe, and small privately-owned forest lands that are managed according to Washington's forest and fish prescriptions, in combination with other forest management activities, function as wildlife habitat now and in the future.

***(16) Within existing appropriations, the department shall implement the wildfire prevention and protection work group as defined in Substitute Senate Bill No. 6603 (wildfire prevention).***

(17) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to establish a work group to study existing legislation affecting the oil and natural gas industry, and to make recommendations to that legal framework to improve the regulatory, technical, environmental, and financial framework of the oil and gas industry. The department shall report its recommendations to the legislature by December 30, 2006.

(18) \$35,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Engrossed Senate Bill No. 5179 (forest health). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(19) \$719,000 of the surface mining reclamation account—state appropriation is provided solely to implement Engrossed Second Substitute Senate Bill No. 6175 (surface mining). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

\*Sec. 308 was partially vetoed. See message at end of chapter.

**Sec. 309.** 2005 c 518 s 309 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund—State Appropriation (FY 2006) . . . . .	(\$11,000,000)
	\$10,979,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$10,443,000)
	\$12,271,000
General Fund—Federal Appropriation . . . . .	(\$10,608,000)
	\$10,634,000
General Fund—Private/Local Appropriation . . . . .	\$413,000
Aquatic Lands Enhancement Account—State Appropriation . . . . .	(\$1,986,000)
	\$1,990,000
Water Quality Account—State Appropriation . . . . .	(\$968,000)
	\$972,000
State Toxics Control Account—State Appropriation . . . . .	(\$3,416,000)
	\$3,555,000

Water Quality Permit Account—State Appropriation . . . . .	\$238,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation. . . . .</u>	<u>\$39,000</u>
TOTAL APPROPRIATION . . . . .	<u>(((\$39,072,000))</u>
	<u>\$41,091,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$37,000 of the general fund—state appropriation for fiscal year 2006 and \$37,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for implementation of the Puget Sound conservation and recovery plan and agency action item WSDA-01.

(2) Fees and assessments approved by the department in the 2005-07 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(3) Within funds appropriated in this section, the department, in addition to the authority provided in RCW 17.26.007, may enter into agreements with federal agencies to eradicate spartina from private lands that may provide a source of reinfestation to public lands.

(4) \$36,000 of the general fund—state appropriation for fiscal year 2006 and \$37,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for an economic impact study of fairs in the state of Washington.

(5) \$12,000 of the general fund—state appropriation for fiscal year 2006 and \$13,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for indemnity payments for poultry that are ordered by the department to be slaughtered or destroyed.

(6) \$250,000 of the general fund—state appropriation for fiscal year 2006 and \$250,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for market promotion and trade barrier grants.

(7) \$75,000 of the general fund—state appropriation for fiscal year 2006 and \$75,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the small farm and direct marketing program.

(8) ~~(\$466,000)~~ \$306,000 of the general fund—state appropriation for fiscal year 2006 ~~(is)~~ and \$160,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to complete a database application that would consolidate program information and enable the department to more effectively respond to a food safety or animal disease emergency.

(9) \$150,000 of the general fund—state appropriation for fiscal year 2006 and \$150,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to implement the Washington wine brand campaign.

(10) The department shall consult with affected agricultural industries before fees for fruit and vegetable inspections may be raised. The consultation shall include a review of current inspection services, the cost of providing those services, and the discontinuation of unnecessary services.

(11) \$85,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Substitute House Bill No. 3033 (animal identification). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(12) \$30,000 of the general fund—state appropriation for fiscal year 2006 and \$110,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to implement Engrossed Substitute Senate Bill No. 6508 (renewable fuel). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(13) \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to support noxious weed boards.

(14) \$500,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the purchase of agricultural products equipment. The department shall negotiate an appropriate agreement with the agriculture industry for the use of the equipment.

(15) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for spartina eradication efforts.

(16) \$26,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Engrossed Substitute Senate Bill No. 5385 (invasive species council). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(17) \$30,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Substitute Senate Bill No. 6377 (milk and milk products). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

Sec. 310. 2005 c 518 s 310 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON POLLUTION LIABILITY REINSURANCE PROGRAM**

Pollution Liability Insurance Program Trust	
Account—State Appropriation . . . . .	(( <del>\$861,000</del> ))
	<u>\$864,000</u>

**PART IV  
TRANSPORTATION**

Sec. 401. 2005 c 518 s 401 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$1,886,000</del> ))
	<u>\$1,535,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$1,787,000</del> ))
	<u>\$1,704,000</u>
Architects' License Account—State Appropriation . . . . .	(( <del>\$728,000</del> ))
	<u>\$715,000</u>
Cemetery Account—State Appropriation . . . . .	(( <del>\$224,000</del> ))
	<u>\$220,000</u>
Professional Engineers' Account—State Appropriation . . . . .	(( <del>\$3,179,000</del> ))
	<u>\$3,217,000</u>
Real Estate Commission Account—State Appropriation . . . . .	(( <del>\$7,583,000</del> ))
	<u>\$7,605,000</u>
Master License Account—State Appropriation . . . . .	(( <del>\$11,593,000</del> ))
	<u>\$11,557,000</u>
Uniform Commercial Code Account—State Appropriation . . . . .	(( <del>\$2,936,000</del> ))

	<u>\$2,861,000</u>
Real Estate Education Account—State Appropriation . . . . .	\$275,000
Real Estate Appraiser Commission Account—State Appropriation . . . . .	( <del>(\$1,345,000)</del> )
	<u>\$1,566,000</u>
Business and Professions Account—State Appropriation . . . . .	( <del>(\$7,927,000)</del> )
	<u>\$9,605,000</u>
Real Estate Research Account—State Appropriation. . . . .	( <del>(\$301,000)</del> )
	<u>\$321,000</u>
<del>(Wildlife Account—State Appropriation . . . . .)</del>	<del>(\$13,000)</del>
Funeral Directors and Embalmers Account—State Appropriation . . . . .	( <del>(\$534,000)</del> )
	<u>\$531,000</u>
Geologists' Account—State Appropriation. . . . .	( <del>(\$34,000)</del> )
	<u>\$47,000</u>
Data Processing Revolving Account—State Appropriation. . . . .	\$29,000
Derelict Vessel Removal Account—State Appropriation. . . . .	\$31,000
<u>Pension Funding Stabilization Account—State Appropriation. . . . .</u>	<u>\$30,000</u>
TOTAL APPROPRIATION . . . . .	( <del>(\$40,405,000)</del> )
	<u>\$41,849,000</u>

(1) The appropriations in this section are subject to the following conditions and limitations: In accordance with RCW 43.24.086, it is the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. For each licensing program covered by RCW 43.24.086, the department shall set fees at levels sufficient to fully cover the cost of administering the licensing program, including any costs associated with policy enhancements funded in the 2005-07 fiscal biennium. Pursuant to RCW 43.135.055, during the 2005-07 fiscal biennium, the department may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the costs of the licensing programs.

(2) \$7,685,000 of the business and professions account—state appropriation is subject to enactment of Substitute House Bill No. 1394 (business and professions account). If the bill is not enacted by June 30, 2005, the appropriations out of this account shall be made from the general fund.

(3) \$1,653,000 of the master license account—state appropriation is subject to enactment of House Bill No. 2131 (master licensing service). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(4) \$34,000 of the general fund—state appropriation for fiscal year 2006 are subject to enactment of House Bill No. 1241 (vehicle licensing and registration). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(5) \$180,000 of the real estate appraiser commission account—state appropriation is provided solely to implement Senate Bill No. 5274 (real estate appraisers). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6) \$56,000 of the business and professions account—state appropriation is provided solely for the implementation of Substitute House Bill No. 2596 (cosmetology apprenticeship). If the bill is not enacted by June 30, 2006, the amount provided for in this subsection shall lapse.

(7) \$148,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Second Substitute Senate Bill No. 6364 (recreational vehicles). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**Sec. 402.** 2005 c 518 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL**

General Fund—State Appropriation (FY 2006) . . . . .	(\$36,089,000))
	<u>\$37,601,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$30,702,000))
	<u>\$32,753,000</u>
General Fund—Federal Appropriation . . . . .	(\$4,356,000))
	<u>\$4,364,000</u>
General Fund—Private/Local Appropriation . . . . .	(\$595,000))
	<u>\$596,000</u>
Death Investigations Account—State Appropriation . . . . .	(\$5,615,000))
	<u>\$4,628,000</u>
Public Safety and Education Account—State Appropriation . . . . .	(\$4,941,000))
	<u>\$3,388,000</u>
Enhanced 911 Account—State Appropriation . . . . .	\$573,000
County Criminal Justice Assistance Account—State Appropriation . . . . .	(\$2,883,000))
	<u>\$2,895,000</u>
Municipal Criminal Justice Assistance Account—State Appropriation . . . . .	(\$1,154,000))
	<u>\$1,157,000</u>
Fire Service Trust Account—State Appropriation . . . . .	\$131,000
Fire Service Training Account—State Appropriation . . . . .	(\$7,550,000))
	<u>\$7,560,000</u>
State Toxics Control Account—State Appropriation . . . . .	(\$468,000))
	<u>\$469,000</u>
Violence Reduction and Drug Enforcement Account—State Appropriation . . . . .	\$313,000
Fingerprint Identification Account—State Appropriation . . . . .	(\$6,257,000))
	<u>\$6,270,000</u>
Disaster Response Account—State Appropriation . . . . .	\$2,000
<del>(DNA Data Base Account—State Appropriation . . . . .</del>	<del>\$150,000</del>
Aquatic Invasive Species Prevention Account—State Appropriation . . . . .	<del>(\$222,000))</del>
Aquatic Invasive Species Enforcement Account—State Appropriation . . . . .	<u>\$145,000</u>
Pension Funding Stabilization Account—State Appropriation . . . . .	<u>\$102,000</u>

TOTAL APPROPRIATION . . . . .((~~\$102,001,000~~)  
\$102,947,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$200,000 of the fire service training account—state appropriation is provided solely for two FTEs in the office of state fire marshal to exclusively review K-12 construction documents for fire and life safety in accordance with the state building code. It is the intent of this appropriation to provide these services only to those districts that are located in counties without qualified review capabilities.

(2) (~~(\$222,000)~~) \$145,000 of the aquatic invasive species (~~(prevention)~~) enforcement account—state appropriation is provided solely for the implementation of Engrossed Substitute Senate Bill No. 5699 (aquatic invasive species). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(3) \$250,000 of the general fund—state appropriation for fiscal year 2006 ~~(is)~~ and \$240,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of Engrossed House Bill No. 1241 (vehicle licensing and registration). If the bill is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(4) \$395,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of section 5 of Second Substitute House Bill No. 2805 (missing persons). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(5) If funding is provided through a federal grant or through a memorandum of understanding with a local government, the Washington state patrol's automatic fingerprint identification system shall be capable of instantly accepting electronic latent search records from any Washington state local law enforcement agency, to be implemented on a timeline agreed to by the patrol and the agency granting the fund source. The Washington state patrol shall notify the appropriate fiscal and policy committees of the legislature in writing upon the receipt of such federal moneys or upon the effective date of a memorandum of understanding with a local government.

(6) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Substitute Senate Bill No. 6519 (sex offender registration). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**PART V  
EDUCATION**

**Sec. 501.** 2005 c 518 s 501 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION**

(1) STATE AGENCY OPERATIONS  
General Fund—State Appropriation (FY 2006) . . . . .(~~\$12,946,000~~)  
\$13,452,000  
General Fund—State Appropriation (FY 2007) . . . . .(~~\$12,870,000~~)  
\$17,151,000

General Fund—Federal Appropriation . . . . .	(\$30,248,000)
	<u>\$23,090,000</u>
TOTAL APPROPRIATION . . . . .	(\$56,064,000)
	<u>\$53,693,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(a) (~~(\$10,836,000)~~) \$10,835,000 of the general fund—state appropriation for fiscal year 2006 and (~~(\$10,910,000)~~) \$10,980,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the operation and expenses of the office of the superintendent of public instruction. Within the amounts provided in this subsection, the superintendent shall recognize the extraordinary accomplishments of four students who have demonstrated a strong understanding of the civics essential learning requirements to receive the Daniel J. Evans civic education award. The students selected for the award must demonstrate understanding through completion of at least one of the classroom-based civics assessment models developed by the superintendent of public instruction, and through leadership in the civic life of their communities. The superintendent shall select two students from eastern Washington and two students from western Washington to receive the award, and shall notify the governor and legislature of the names of the recipients.

(b) \$428,000 of the general fund—state appropriation for fiscal year 2006 and (~~(\$428,000)~~) \$547,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

(c) \$509,000 of the general fund—state appropriation for fiscal year 2006 and \$504,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the operation and expenses of the Washington professional educator standards board. Within the amounts provided in this subsection, the Washington professional educator standards board shall pursue the implementation of recent study recommendations including: (i) Revision of teacher mathematics endorsement competencies and alignment of teacher tests to the updated competencies, and (ii) development of mathematics specialist endorsement.

(d) (~~(\$100,000)~~) \$607,000 of the general fund—state appropriation for fiscal year 2006 (~~(is)~~) and \$592,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for increased attorney general fees related to *School Districts' Alliance for Adequate Funding of Special Education et al. v. State of Washington et al.*, Thurston County Superior Court Cause No. 04-2-02000-7.

(e) (~~(\$950,000)~~) \$1,900,000 of the general fund—state appropriation (~~(for fiscal year 2006 and \$950,000 of the general fund—state appropriation for fiscal year 2007 are provided solely)~~) is for replacement of the apportionment system, which includes the processes that collect school district budget and expenditure information, staffing characteristics, and the student enrollments that drive the funding process.

(f)(i) \$45,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for the office of the superintendent of public instruction and the department of health to collaborate and develop a work group to assess



school nursing services in class I school districts. The work group shall consult with representatives from the following groups: School nurses, schools, students, parents, teachers, health officials, and administrators. The work group shall:

(A) Study the need for additional school nursing services by gathering data about current school nurse-to-student ratios in each class I school district and assessing the demand for school nursing services by acuity levels and the necessary skills to meet those demands. The work group also shall recommend to the legislature best practices in school nursing services, including a dedicated, sustainable funding model that would best meet the current and future needs of Washington's schools and contribute to greater academic success of all students. The work group shall make recommendations for school nursing services, and may examine school nursing services by grade level. The work group shall assess whether funding for school nurses should continue as part of basic education; and

(B) In collaboration with managed care plans that contract with the department of social and health services medical assistance administration to provide health services to children participating in the medicaid and state children's health insurance program, identify opportunities to improve coordination of and access to health services for low-income children through the use of school nurse services. The work group shall evaluate the feasibility of pooling school district and managed care plan funding to finance school nurse positions in school districts with high numbers of low-income children.

(ii) The office of superintendent of public instruction shall report the work group's findings and plans for implementation to the legislature by February 1, 2006.

(g) ~~\$78,000~~ of the general fund—state appropriation for fiscal year 2006 and ~~(\$78,000)~~ \$228,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to provide direct services and support to schools around an integrated, interdisciplinary approach to instruction in conservation, natural resources, sustainability, and human adaptation to the environment. Of this amount, \$150,000 of the general fund—state appropriation for fiscal year 2007 is provided for deposit in the Washington natural science, wildlife, and environmental education partnership account for grants pursuant to RCW 28A.300.440. Specific integration efforts will focus on science, math, and the social sciences. Integration between basic education and career and technical education, particularly agricultural and natural sciences education, is to be a major element.

(h) \$2,896,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the creation of a statewide data base of longitudinal student information. This amount is conditioned on the department satisfying the requirements in section 902, chapter 518, Laws of 2005.

(i) \$325,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for comprehensive cultural competence and anti-bias education programs for educators and students. The office of superintendent of public instruction shall administer grants to school districts with the assistance and input of groups such as the anti-defamation league and the Jewish federation of Seattle.

(j) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of Senate Bill No. 6219 (financial literacy). If the bill is not enacted by June 30, 2006, the amount in this section is provided solely for additional efforts at promoting financial literacy of students. The effort will be coordinated through the financial literacy public-private partnership.

(k) \$64,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the office of the superintendent of public instruction to conduct further evaluation of issues raised in the recently completed joint legislative audit and review committee report on the accounting of special education excess costs. Within the amounts provided in this subsection, the office of the superintendent of public instruction will convene a work group to evaluate modifying or replacing the current 1077 methodology. This work group will deliver a report to the appropriate committees of the legislature, including the joint legislative audit and review committee, and the office of financial management, by January 1, 2007. The work group will take into consideration recommendations of the Washington learns steering committee.

(l) \$15,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Engrossed House Bill No. 2910 (environmental education). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(2) STATEWIDE PROGRAMS

General Fund—State Appropriation (FY 2006) . . . . .	(\$10,192,000)
	\$12,341,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$10,155,000)
	\$18,884,000
General Fund—Federal Appropriation . . . . .	(\$47,465,000)
	\$58,112,000
TOTAL APPROPRIATION . . . . .	(\$67,812,000)
	\$89,337,000

The appropriations in this subsection are provided solely for the statewide programs specified in this subsection and are subject to the following conditions and limitations:

(a) HEALTH AND SAFETY

(i) A maximum of \$2,541,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$2,541,000 of the general fund—state appropriation for fiscal year 2007 are provided for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(ii) A maximum of \$96,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$96,000 of the general fund—state appropriation for fiscal year 2007 are provided for the school safety center in the office of the superintendent of public instruction subject to the following conditions and limitations:

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have

been proven successful; act as an information dissemination and resource center when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(iii) A maximum of \$100,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$100,000 of the general fund—state appropriation for fiscal year 2007 are provided for a school safety training program provided by the criminal justice training commission. The commission, in collaboration with the school safety center advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

(iv) \$40,000 of the general fund—state appropriation is provided solely for the safety center advisory committee to develop and distribute a pamphlet to promote internet safety for children, particularly in grades seven through twelve. The pamphlet shall be posted on the superintendent of public instruction's web site. To the extent possible, the pamphlet shall be distributed in schools throughout the state and in other areas accessible to youth, including but not limited to libraries and community centers.

(v) ~~(\$11,600,000)~~ \$10,344,000 of the general fund—federal appropriation is provided for safe and drug free schools and communities grants for drug and violence prevention activities and strategies and \$800,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for one-time backfill of the federal reductions to the safe and drug free schools and communities grant program.

(vi) A maximum of \$146,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$146,000 of the general fund—state appropriation for fiscal year 2007 are provided for a nonviolence and leadership training program provided by the institute for community leadership. The program shall provide a request for proposal process, with up to 80 percent funding, for nonviolence leadership workshops serving at least 12 school districts with direct programming in 36 elementary, middle, and high schools throughout Washington state.

(vii) \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for a pilot youth suicide prevention and information program. The office of superintendent of public instruction will work with selected school districts and community agencies in identifying effective strategies at preventing youth suicide.

(viii) \$40,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Substitute Senate Bill No. 6580 (school notification about sex and kidnapping offenders), including section 2 of that act.

(ix) \$45,000 of the general fund state—state appropriation for fiscal year 2007 is provided solely for the development of safe school plan standards. By December 1, 2006, the Washington state school safety center advisory committee, in consultation with the superintendent of public instruction shall

prepare a report with: (1) The recommended standards; (2) a potential implementation plan for those standards statewide; and (3) detailed information on the costs and other impacts on school districts from implementing the standards. The development of standards shall address requirements for school mapping and shall include a review of current research regarding safe school planning.

(b) TECHNOLOGY

A maximum of \$1,939,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$1,939,000 of the general fund—state appropriation for fiscal year 2007 are provided for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network.

(c) GRANTS AND ALLOCATIONS

(i) \$787,000 of the fiscal year 2006 appropriation and \$799,000 of the fiscal year 2007 appropriation are provided solely for the special services pilot projects. The office of the superintendent of public instruction shall allocate these funds to the district or districts participating in the pilot program according to the provisions of RCW 28A.630.015.

(ii) A maximum of \$548,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of ~~(\$548,000)~~ \$1,059,000 of the general fund—state appropriation for fiscal year 2007 are provided for alternative certification routes. Funds may be used by the professional educator standards board to continue existing alternative-route grant programs and to create new alternative-route programs in regions of the state with service shortages. Of this amount, \$511,000 of the general fund—state appropriation for fiscal year 2007 is provided for additional conditional scholarships to candidates seeking an endorsement in special education, math, science, and bilingual education.

(iii) A maximum of \$31,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$31,000 of the general fund—state appropriation for fiscal year 2007 are provided for operation of the Cispus environmental learning center.

(iv) A maximum of \$1,224,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$1,224,000 of the general fund—state appropriation for fiscal year 2007 are provided for in-service training and educational programs conducted by the Pacific Science Center.

(v) A maximum of \$1,079,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$1,079,000 of the general fund—state appropriation for fiscal year 2007 are provided for the Washington state leadership assistance for science education reform (LASER) regional partnership coordinated at the Pacific Science Center.

(vi) A maximum of \$97,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$97,000 of the general fund—state appropriation for fiscal year 2007 are provided to support vocational student leadership organizations.

(vii) A maximum of \$146,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$146,000 of the general fund—state

appropriation for fiscal year 2007 are provided for the Washington civil liberties education program.

(viii) \$1,000,000 of the general fund—state appropriation for fiscal year 2006 and \$1,000,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the Washington state achievers scholarship program. The funds shall be used to support community involvement officers that recruit, train, and match community volunteer mentors with students selected as achievers scholars.

(ix) (~~(\$1,521,000)~~) \$1,911,000 of the general fund—federal appropriation is provided for the advanced placement fee program to increase opportunities for low-income students and under-represented populations to participate in advanced placement courses and to increase the capacity of schools to provide advanced placement courses to students.

(x) (~~(\$8,292,000)~~) \$5,532,000 of the general fund—federal appropriation is provided for comprehensive school reform demonstration projects to provide grants to low-income schools for improving student achievement through adoption and implementation of research-based curricula and instructional programs.

(xi) (~~(\$19,587,000)~~) \$24,490,000 of the general fund—federal appropriation is provided for 21st century learning center grants, providing after-school and inter-session activities for students.

(xii) \$383,000 of the general fund—state appropriation for fiscal year 2006 and \$294,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the Lorraine Wojahn dyslexia pilot reading program in up to five school districts.

(xiii) \$75,000 of the general fund—state appropriation for fiscal year 2006 and \$75,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for developing and disseminating curriculum and other materials documenting women's role in World War II.

(xiv) \$175,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for incentive grants for districts to develop preapprenticeship programs. Grant awards up to \$10,000 each shall be used to support the program's design, school/business/labor agreement negotiations, and recruiting high school students for preapprenticeship programs in the building trades and crafts.

(xv) \$3,980,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the dissemination of the Navigation 101 curriculum to all districts, including the development and dissemination of electronic student planning tools and the development of a software package to use to analyze the impact of the implementation of Navigation 101 on student performance, and grants to at least one hundred school districts for the implementation of the Navigation 101 program. The implementation grants will be limited to a maximum of two years and the school districts selected shall represent various regions of the state and reflect differences in school district size and enrollment characteristics.

(xvi) \$2,148,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for one-time grants to school districts to offset extraordinary rate increases for natural gas and heating oil.

(xvii) \$22,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the implementation of Engrossed House Bill No. 2579 (educational assessments). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(xviii) \$1,500,000 of the general fund—state appropriation for fiscal year 2006 and \$1,500,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for a pilot grant program related to serving students in staffed residential homes. The pilot grant program will be established in at least five school districts. The districts eligible for the pilot grant program shall be limited to school districts with a concentration of students residing in staffed residential homes greater than or equal to 1.3 full time equivalent students per 1,000 K-12 public students. The amount of funding for each pilot grant district shall be in proportion to the degree of concentration of staffed residential home students residing and served in each respective district, and other criteria as determined by the office of the superintendent of public instruction. Funding in the pilot grant program shall not be considered part of the basic education program.

(A) The pilot grant program is intended to: (I) Identify the fiscal and educational challenges posed to districts that serve staffed residential homes students; (II) provide resources to assist school districts in developing best practices for addressing these challenges; (III) address costs resulting from high concentrations of staffed residential home students in some school districts; (IV) develop models of collaboration between school districts and staffed residential homes; and (V) gain additional information on the variety of circumstances and needs present in the staffed residential home population, including both special education and nonspecial education eligible students.

(B) As a condition of the pilot grant program, the selected school districts must meet the following criteria: (I) Jointly develop, with staffed residential homes in their community, a model policy and plan for collaboration and information sharing, which includes an agreed upon routine of regular communication regarding each child's progress, including for special education students the development and regular updating of individualized education programs; (II) provide an annual progress report regarding the implementation of the model policy and plan and measured progress toward meeting the educational needs of students in staffed residential homes; and (III) provide information and data to the office of the superintendent of public instruction as required for the study detailed in (D) of this subsection (c)(xviii).

(C) \$40,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the office of the superintendent of public instruction, with the assistance of the department of social and health services, to prepare a report to the appropriate policy and fiscal committees of the legislature and the office of financial management on: (I) The number of students residing at each staffed residential home by school district; (II) the specific types of needs of students residing at each staffed residential home; and (III) an overview of the differences in the programs being offered at staffed residential homes and the ranges of costs associated with these programs; and (IV) a summary of the current types of collaboration between school districts and staffed residential homes. This report shall be submitted by November 30, 2006.

(D) \$15,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the office of the superintendent of public instruction to report to the appropriate policy and fiscal committees of the legislature and the office of financial management on the results of the pilot grant program established in this subsection (c)(xviii), including a description of the impact on the educational services delivered to the students residing at each staffed residential home. Based on the results of the pilot grant program, the office of the superintendent of public instruction may make recommendations regarding best practices for meeting the needs of students residing in staffed residential homes, and fostering collaboration with staffed residential homes. This report shall be submitted by June 30, 2007.

(E) For those students residing in staffed residential homes who are special education eligible, school districts are eligible to pursue safety net funding beyond the pilot grant program amounts so that the combined basic education allocation, special education excess cost allocation, pilot grant amount, and safety net grants recognize the costs associated with serving staffed residential home students potentially concentrated in a few school districts.

(F) For purposes of this subsection (c)(xviii), "staffed residential home" means a home licensed by the department of social and health services to provide twenty-four hour care for six or fewer children or expectant mothers, which employs staff to care for them.

**Sec. 502.** 2005 c 518 s 502 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT**

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$4,180,957,000</del> ))
	<u>\$4,193,442,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$4,243,010,000</del> ))
	<u>\$4,281,807,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$28,548,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$8,423,967,000</del> ))
	<u>\$8,503,797,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for certificated staff salaries for the 2005-06 and 2006-07 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (d) through (f) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) 49 certificated instructional staff units per thousand full-time equivalent students in grades K-3;

(iii) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12; and

(iv) An additional 4.2 certificated instructional staff units for grades K-3 and an additional 7.2 certificated instructional staff units for grade 4. Any funds allocated for the additional certificated units provided in this subsection (iv) shall not be considered as basic education funding;

(A) Funds provided under this subsection (2)(a)(iv) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio in grades K-4 equal to or greater than 53.2 certificated instructional staff per thousand full-time equivalent students. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-4 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-4 may dedicate up to 1.3 of the 53.2 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-4. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio in grades K-4 equal to or greater than 53.2 certificated instructional staff per thousand full-time equivalent students may use allocations generated under this subsection (2)(a)(iv) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 5-6. Funds allocated under this subsection (2)(a)(iv) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants;

(b) For school districts with a minimum enrollment of 250 full-time equivalent students whose full-time equivalent student enrollment count in a given month exceeds the first of the month full-time equivalent enrollment count by 5 percent, an additional state allocation of 110 percent of the share that such increased enrollment would have generated had such additional full-time equivalent students been included in the normal enrollment count for that particular month;

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and



(B) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction with a waiver allowed for skills centers in current operation that are not meeting this standard until the 2007-08 school year, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students;

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) Indirect cost charges by a school district to vocational-secondary programs shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff

units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students;

(g) For each nonhigh school district having an enrollment of more than seventy annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-8 program or a grades 1-8 program, an additional one-half of a certificated instructional staff unit; and

(h) For each nonhigh school district having an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, operating a grades K-6 program or a grades 1-6 program, an additional one-half of a certificated instructional staff unit.

(3) Allocations for classified salaries for the 2005-06 and 2006-07 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each sixty average annual full-time equivalent students; and

(c) For each nonhigh school district with an enrollment of more than fifty annual average full-time equivalent students and less than one hundred eighty students, an additional one-half of a classified staff unit.

(4) Fringe benefit allocations shall be calculated at a rate of ~~((10.90))~~ 11.21 percent in the 2005-06 school year and ~~((11.90))~~ 13.02 percent in the 2006-07 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of ~~((14.57))~~ 14.07 percent in the 2005-06 school year and ~~((15.82))~~ 15.99 percent in the 2006-07 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(2) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$9,112 per certificated staff unit in the 2005-06 school year and a maximum of ~~((9,285))~~ \$9,476 per certificated staff unit in the 2006-07 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$22,377 per certificated staff unit in the 2005-06 school year and a maximum of (~~(\$22,802)~~) \$23,272 per certificated staff unit in the 2006-07 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$17,362 per certificated staff unit in the 2005-06 school year and a maximum of (~~(\$17,692)~~) \$18,056 per certificated staff unit in the 2006-07 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$531.09 for the 2005-06 and 2006-07 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) The superintendent may distribute a maximum of (~~(\$7,621,000)~~) \$12,992,000 outside the basic education formula during fiscal years 2006 and 2007 as follows:

(a) For fire protection for school districts located in a fire protection district as now or hereafter established pursuant to chapter 52.04 RCW, a maximum of \$513,000 may be expended in fiscal year 2006 and a maximum of (~~(\$523,000)~~) \$534,000 may be expended in fiscal year 2007;

(b) For summer vocational programs at skills centers, a maximum of \$2,035,000 may be expended for the 2006 fiscal year and a maximum of (~~(\$2,035,000)~~) \$2,385,000 for the 2007 fiscal year. 20 percent of each fiscal year amount may carry over from one year to the next;

(c) A maximum of (~~(\$365,000)~~) \$369,000 may be expended for school district emergencies;

(d) A maximum of \$485,000 each fiscal year may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs; and

(e) \$394,000 of the general fund—state appropriation for fiscal year 2006 and (~~(\$787,000)~~) \$850,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for incentive grants to encourage school districts to increase enrollment in vocational skills centers. Up to \$500 for each full-time

equivalent student may be proportionally distributed to a school district or school districts increasing skills centers enrollment above the levels in the 2004-05 school year. The office of the superintendent of public instruction shall develop criteria for awarding incentive grants pursuant to this subsection. The total amount allocated pursuant to this subsection shall be limited to ~~((\$1,181,000))~~ \$1,244,000 for the 2005-07 biennium. Funds provided in this subsection shall first be expended to provide incentive grants to school districts increasing skills center enrollment during the school year. If funds are available after making these allocations, funds may be distributed for: (i) Increasing enrollment including allowing up to an additional .2 full time equivalent student enrollment at skills centers; (ii) increasing enrollment and capacity of summer vocational programs at the skills centers.

(f) \$4,943,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for one-time allocations for equipment replacement in vocational programs and skills centers. The funding shall be allocated based on \$75 per full time equivalent vocational student and \$125 per full time equivalent skills center student.

(10) For purposes of RCW 84.52.0531, the increase per full-time equivalent student is 5.2 percent from the 2004-05 school year to the 2005-06 school year and ~~((3.4))~~ 5.2 percent from the 2005-06 school year to the 2006-07 school year.

(11) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

**Sec. 503.** 2005 c 518 s 503 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—  
BASIC EDUCATION EMPLOYEE COMPENSATION.** (1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) Salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 12E by the district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP Document 1Sb; and

(b) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 12E.

(2) For the purposes of this section:

(a) "LEAP Document 1Sb" means the computerized tabulation establishing staff mix factors for certificated instructional staff according to education and years of experience, as developed by the legislative evaluation and accountability program committee on (~~March 18, 2005~~) March 6, 2006, at (~~40:00~~) 05:25 hours; and

(b) "LEAP Document 12E" means the computerized tabulation of 2005-06 and 2006-07 school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on (~~April 6, 2005~~) March 6, 2006, at (~~40:00~~) 05:25 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of (~~10.26~~) 10.57 percent for school year 2005-06 and (~~11.26~~) 12.38 percent for school year 2006-07 for certificated staff and for classified staff (~~11.07~~) 10.57 percent for school year 2005-06 and (~~12.32~~) 12.49 percent for the 2006-07 school year.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

K-12 Salary Allocation Schedule For Certificated Instructional Staff  
2005-06 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	30,383	31,204	32,054	32,906	35,640	37,401	36,426	39,161	40,924
1	30,792	31,624	32,485	33,375	36,137	37,889	36,831	39,594	41,345
2	31,181	32,022	32,892	33,850	36,605	38,375	37,239	39,994	41,764
3	31,583	32,431	33,311	34,299	37,049	38,861	37,626	40,373	42,187
4	31,977	32,862	33,747	34,770	37,536	39,361	38,031	40,796	42,623
5	32,384	33,273	34,167	35,247	38,002	39,864	38,442	41,199	43,061
6	32,802	33,672	34,596	35,729	38,472	40,344	38,864	41,607	43,478
7	33,536	34,420	35,356	36,551	39,334	41,258	39,655	42,437	44,362
8	34,612	35,543	36,502	37,796	40,616	42,611	40,899	43,720	45,714
9		36,707	37,713	39,054	41,940	44,002	42,156	45,044	47,106
10			38,938	40,376	43,301	45,432	43,479	46,405	48,535
11				41,737	44,726	46,900	44,840	47,830	50,003
12				43,055	46,189	48,428	46,255	49,292	51,532
13					47,688	49,993	47,720	50,791	53,096
14					49,194	51,618	49,227	52,396	54,721
15					50,474	52,961	50,507	53,758	56,144
16 or more					51,483	54,019	51,517	54,833	57,266

~~(K-12 Salary Allocation Schedule For Certificated Instructional Staff  
2006-07 School Year)~~

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	30,900	31,735	32,599	33,466	36,247	38,038	37,046	39,827	41,620

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1	31,316	32,162	33,038	33,942	36,752	38,534	37,458	40,268	42,048
2	31,712	32,566	33,451	34,426	37,228	39,028	37,873	40,674	42,475
3	32,121	32,983	33,878	34,883	37,679	39,523	38,266	41,060	42,905
4	32,521	33,421	34,321	35,362	38,174	40,031	38,678	41,491	43,348
5	32,935	33,840	34,748	35,846	38,649	40,543	39,097	41,900	43,794
6	33,360	34,245	35,185	36,337	39,127	41,031	39,526	42,315	44,218
7	34,107	35,005	35,957	37,173	40,003	41,960	40,330	43,159	45,116
8	35,201	36,148	37,123	38,439	41,307	43,336	41,594	44,464	46,492
9		37,332	38,355	39,718	42,654	44,751	42,873	45,810	47,908
10			39,601	41,063	44,038	46,205	44,219	47,194	49,361
11				42,448	45,487	47,698	45,603	48,644	50,853
12				43,788	46,975	49,252	47,042	50,131	52,409
13					48,499	50,844	48,532	51,655	54,000
14					50,031	52,496	50,065	53,287	55,652
15					51,333	53,862	51,366	54,673	57,099
16 or more					52,359	54,938	52,393	55,766	58,241))

K-12 Salary Allocation Schedule For Certificated Instructional Staff

2006-07 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90	BA+135	MA	MA+45	MA+90 or PHD
0	31,386	32,234	33,112	33,992	36,817	38,636	37,629	40,454	42,275
1	31,808	32,668	33,557	34,476	37,330	39,140	38,047	40,901	42,710
2	32,211	33,079	33,978	34,967	37,813	39,641	38,469	41,314	43,143
3	32,626	33,502	34,410	35,432	38,272	40,144	38,868	41,706	43,579
4	33,033	33,947	34,861	35,918	38,775	40,661	39,286	42,143	44,030
5	33,453	34,372	35,295	36,410	39,257	41,180	39,711	42,559	44,483
6	33,885	34,784	35,738	36,909	39,742	41,676	40,147	42,981	44,913
7	34,644	35,556	36,523	37,758	40,633	42,620	40,964	43,838	45,826
8	35,755	36,717	37,707	39,044	41,957	44,018	42,249	45,163	47,223
9		37,919	38,958	40,343	43,325	45,455	43,547	46,531	48,661
10			40,224	41,709	44,730	46,932	44,915	47,937	50,137
11				43,115	46,202	48,448	46,321	49,409	51,653
12				44,476	47,714	50,026	47,782	50,919	53,233
13					49,262	51,644	49,295	52,468	54,849
14					50,818	53,322	50,852	54,125	56,528
15					52,140	54,709	52,174	55,533	57,998
16 or more					53,183	55,802	53,217	56,643	59,157

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the

masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

- (i) Credits earned since receiving the masters degree; and
- (ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

- (a) "BA" means a baccalaureate degree.
- (b) "MA" means a masters degree.
- (c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

- (a) The employee has a masters degree; or
- (b) The credits were used in generating state salary allocations before January 1, 1992.

(7) The certificated instructional staff base salary specified for each district in LEAP Document 12E and the salary schedules in subsection (4)(a) of this section include two learning improvement days. A school district is eligible for the learning improvement day funds only if the learning improvement days have been added to the 180-day contract year. If fewer days are added, the additional learning improvement allocation shall be adjusted accordingly. The additional days shall be limited to specific activities identified in the state required school improvement plan related to improving student learning that are consistent with education reform implementation, and shall not be considered part of basic education. The principal in each school shall assure that the days are used to provide the necessary school-wide, all staff professional development that is tied directly to the school improvement plan. The school principal and the district superintendent shall maintain documentation as to their approval of these activities. The length of a learning improvement day shall not be less than the length of a full day under the base contract. The superintendent of public instruction shall ensure that school districts adhere to the intent and purposes of this subsection.

(8) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2) and subsection (7) of this section.

**Sec. 504.** 2005 c 518 s 504 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS**

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$73,981,000</del> ))
	<u>\$74,336,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$186,968,000</del> ))
	<u>\$241,576,000</u>
Education Legacy Trust Account—State Appropriation . . . . .	\$470,000

<u>Pension Funding Stabilization Account Appropriation</u> .....	<u>\$1,543,000</u>
General Fund—Federal Appropriation.....	<del>(\$864,000)</del>
	<u>\$1,043,000</u>
TOTAL APPROPRIATION .....	<del>(\$262,283,000)</del>
	<u>\$318,968,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ~~(\$135,669,000)~~ \$190,375,000 is provided for a cost of living adjustment of 1.2 percent effective September 1, 2005, and another ~~((1.7))~~ 3.3 percent effective September 1, 2006, for state formula staff units. The appropriations include associated incremental fringe benefit allocations at rates of ~~((10.26))~~ 10.57 percent for the 2005-06 school year and ~~((11.26))~~ 12.38 percent for the 2006-07 school year for certificated staff and ~~((11.07))~~ 10.57 percent for the 2005-06 school year and ~~((12.32))~~ 12.49 percent for the 2006-07 school year for classified staff.

(a) The appropriations in this section include the increased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in sections 502 and 503 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in sections 502 and 503 of this act.

(b) The appropriations in this section provide cost of living and incremental fringe benefit allocations based on formula adjustments as follows:

	School Year	
	2005-06	2006-07
Pupil Transportation (per weighted pupil mile)	<del>(\$0.28)</del> <u>\$0.27</u>	<del>(\$0.68)</del> <u>\$1.06</u>
Highly Capable (per formula student)	\$2.96	<del>(\$7.26)</del> <u>\$11.40</u>
Transitional Bilingual Education (per eligible bilingual student)	<del>(\$7.92)</del> <u>\$7.94</u>	<del>(\$19.44)</del> <u>\$30.52</u>
Learning Assistance (per formula student)	\$1.69	<del>(\$4.14)</del> <u>\$6.50</u>

(c) The appropriations in this section include \$251,000 for fiscal year 2006 and ~~(\$676,000)~~ \$1,022,000 for fiscal year 2007 for salary increase adjustments for substitute teachers.

(2) ~~(\$126,614,000)~~ \$129,905,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$582.47 per month for the 2005-06 and 2006-07 school years. The appropriations in this section provide for a rate increase to \$629.07 per month for the 2005-06 school year and ~~(\$679.39)~~ \$682.54 per month for the 2006-07



school year. The adjustments to health insurance benefit allocations are at the following rates:

	School Year	
	2005-06	2006-07
Pupil Transportation (per weighted pupil mile)	\$0.42	<del>(\$0.88)</del> <u>\$0.91</u>
Highly Capable (per formula student)	<del>(\$2.89)</del> <u>\$2.88</u>	<del>(\$5.97)</del> <u>\$6.16</u>
Transitional Bilingual Education (per eligible bilingual student)	\$7.54	<del>(\$15.69)</del> <u>\$16.20</u>
Learning Assistance (per formula student)	\$1.49	<del>(\$3.11)</del> <u>\$3.21</u>

(3) The rates specified in this section are subject to revision each year by the legislature.

**Sec. 505.** 2005 c 518 s 505 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$242,170,000)</del> <u>\$247,541,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$248,575,000)</del> <u>\$252,607,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$755,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$490,745,000)</b></del> <u><b>\$500,903,000</b></u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) A maximum of \$796,000 of this fiscal year 2006 appropriation and a maximum of ~~(\$812,000)~~ \$828,000 of the fiscal year 2007 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) \$5,000 of the fiscal year 2006 appropriation and \$5,000 of the fiscal year 2007 appropriation are provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(4) Allocations for transportation of students shall be based on reimbursement rates of ~~(\$41.51)~~ \$42.52 per weighted mile in the 2005-06 school year and ~~(\$42.01)~~ \$42.30 per weighted mile in the 2006-07 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Included in the 2005-06 school year rate is a one-time increase of \$1.12 to offset extraordinary increases in the price of diesel fuel. Allocations for transportation

of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

(5) For busses purchased between July 1, 2005, and June 30, 2007, the office of superintendent of public instruction shall provide reimbursement funding to a school district only after the superintendent of public instruction determines that the school bus was purchased from the list established pursuant to RCW 28A.160.195(2) or a comparable competitive bid process based on the lowest price quote based on similar bus categories to those used to establish the list pursuant to RCW 28A.160.195. The competitive specifications shall meet federal motor vehicle safety standards, minimum state specifications as established by rule by the superintendent, and supported options as determined by the superintendent in consultation with the regional transportation coordinators of the educational service districts.

(6) Beginning with the 2005-06 school year, the superintendent of public instruction shall base depreciation payments for school district buses on the five-year average of lowest bids in the appropriate category of bus. In the final year on the depreciation schedule, the depreciation payment shall be based on the current state price. The superintendent may include a weighting or other adjustment factor in the averaging formula to ease the transition from the current-price depreciation system to the average depreciation system. Prior to making any depreciation payment in the 2005-06 school year, the superintendent shall notify the office of financial management and the fiscal committees of the legislature of the specific depreciation formula to be used. The replacement cost shall be based on the lowest bid in the appropriate bus category for that school year. A maximum of \$50,000 of the fiscal year 2006 appropriation may be expended for software programming costs associated with the implementation of this subsection.

Sec. 506. 2005 c 518 s 506 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL FOOD SERVICE PROGRAMS**

General Fund—State Appropriation (FY 2006) . . . . .	\$3,147,000
General Fund—State Appropriation (FY 2007) . . . . .	\$3,159,000
General Fund—Federal Appropriation . . . . .	<del>(\$288,774,000)</del>
	<u>\$270,423,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$295,080,000)</del>
	<u>\$276,729,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$3,000,000 of the general fund—state appropriation for fiscal year 2006 and \$3,000,000 of the general fund—state appropriation for fiscal year 2007 are provided for state matching money for federal child nutrition programs.

(2) \$100,000 of the general fund—state appropriation for fiscal year 2006 and \$100,000 of the 2007 fiscal year appropriation are provided for summer food programs for children in low-income areas.

(3) \$47,000 of the general fund—state appropriation for fiscal year 2006 and \$59,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to reimburse school districts for school breakfasts served to students enrolled in the free or reduced price meal program pursuant to House Bill No. 1771 (requiring school breakfast programs in certain schools). If House Bill No. 1771 is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

**Sec. 507.** 2005 c 518 s 507 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 2006) . . . . .	(\$460,032,000)
	<u>\$464,812,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$471,961,000)
	<u>\$478,191,000</u>
General Fund—Federal Appropriation . . . . .	(\$435,464,000)
	<u>\$435,664,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$3,234,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>(\$1,367,457,000)</b>
	<u><b>\$1,381,901,000</b></u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) The superintendent of public instruction shall use the excess cost methodology developed and implemented for the 2001-02 school year using the S-275 personnel reporting system and all related accounting requirements to ensure that:

- (i) Special education students are basic education students first;
- (ii) As a class, special education students are entitled to the full basic education allocation; and
- (iii) Special education students are basic education students for the entire school day.

(b) The S-275 and accounting changes in effect since the 2001-02 school year shall supercede any prior excess cost methodologies and shall be required of all school districts.

(3) Each fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state and federal funds to school districts based on two categories: The optional birth through age two program for special education eligible developmentally delayed infants and toddlers, and the mandatory special education program for special education eligible students ages three to twenty-one. A "special education eligible student" means a student receiving specially designed instruction in accordance with a properly formulated individualized education program.

(5)(a) For the 2005-06 and 2006-07 school years, the superintendent shall make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of developmentally delayed infants and toddlers ages birth through two, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools.

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

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(b) "Enrollment percent" means the district's resident special education annual average enrollment, excluding the birth through age two enrollment, as a percent of the district's annual average full-time equivalent basic education enrollment.

Each district's general fund—state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) To the extent necessary, \$18,940,000 of the general fund—state appropriation and \$28,698,000 of the general fund—federal appropriation are provided for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided in subsection (5) of this section. If safety net awards exceed the amount appropriated in this subsection (8), the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider unmet needs for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(d) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999.

(e) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(9) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

(10) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff from the office of superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

(11) A maximum of \$678,000 may be expended from the general fund—state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

(12) A maximum of \$1,000,000 of the general fund—federal appropriation is provided for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

(13) A maximum of \$100,000 of the general fund—federal appropriation shall be expended to create a special education ombudsman program within the office of superintendent of public instruction. The purpose of the program is to provide support to parents, guardians, educators, and students with disabilities. The program will provide information to help families and educators understand state laws, rules, and regulations, and access training and support, technical information services, and mediation services. The ombudsman program will provide data, information, and appropriate recommendations to the office of

superintendent of public instruction, school districts, educational service districts, state need projects, and the parent and teacher information center.

(14) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

(15) A maximum of \$1,200,000 of the general fund—federal appropriation may be expended by the superintendent for projects related to use of inclusion strategies by school districts for provision of special education services.

(16) \$1,400,000 of the general fund—federal appropriation shall be expended for one-time grants to school districts for the start-up costs of implementing web-based programs that assist schools in meeting state and federal requirements regarding individualized education plans.

(17) The superintendent, consistent with the new federal IDEA reauthorization, shall continue to educate school districts on how to implement a birth-to-three program and review the cost effectiveness and learning benefits of early intervention.

(18) A school district may carry over from one year to the next year up to 10 percent of the general fund—state funds allocated under this program; however, carryover funds shall be expended in the special education program.

Sec. 508. 2005 c 518 s 508 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS**

General Fund—State Appropriation (FY 2006) . . . . .	(\$3,694,000))
	<u>\$3,691,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$3,724,000))
	<u>\$3,711,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$28,000</u>
TOTAL APPROPRIATION . . . . .	(\$7,418,000))
	<u>\$7,430,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) The educational service districts, at the request of the state board of education pursuant to RCW 28A.310.010 and 28A.310.340, may receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education post-site visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

Sec. 509. 2005 c 518 s 509 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE**

General Fund—State Appropriation (FY 2006) . . . . .	(\$174,465,000))
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	<u>\$173,153,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$182,702,000</del> ))
	<u>\$190,957,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$357,167,000</del> ))
	<u>\$364,110,000</u>

Sec. 510. 2005 c 518 s 510 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$19,084,000</del> ))
	<u>\$18,078,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$19,673,000</del> ))
	<u>\$18,237,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$117,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$38,757,000</del> ))
	<u>\$36,432,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund—state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution's annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) ((~~\$219,000~~)) \$236,000 of the general fund—state appropriation for fiscal year 2006 and ((~~\$219,000~~)) \$236,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to maintain at least one certificated instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certificated instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles, programs for juveniles under the department of corrections, and programs for juveniles under the juvenile rehabilitation administration.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

Sec. 511. 2005 c 518 s 511 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$6,860,000</del> ))
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	<u>\$6,900,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$6,926,000</del> ))
	<u>\$6,974,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$44,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$13,786,000</del> ))
	<u>\$13,918,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of ((~~\$347.24~~)) \$347.93 per funded student for the 2005-06 school year and ((~~\$349.48~~)) \$351.98 per funded student for the 2006-07 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of two percent of each district's full-time equivalent basic education enrollment.

(3) \$170,000 of the fiscal year 2006 appropriation and \$170,000 of the fiscal year 2007 appropriation are provided for the centrum program at Fort Worden state park.

(4) \$90,000 of the fiscal year 2006 appropriation and \$90,000 of the fiscal year 2007 appropriation are provided for the Washington destination imagination network and future problem-solving programs.

**Sec. 512.** 2005 c 518 s 513 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—  
EDUCATION REFORM PROGRAMS**

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$43,076,000</del> ))
	<u>\$45,382,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$40,427,000</del> ))
	<u>\$51,297,000</u>
General Fund—Federal Appropriation . . . . .	(( <del>\$123,345,000</del> ))
	<u>\$147,799,000</u>
TOTAL APPROPRIATION . . . . .	(( <del>\$206,848,000</del> ))
	<u>\$244,478,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) ASSESSMENT

((~~\$19,810,000~~)) (a) \$21,946,000 of the general fund—state appropriation for fiscal year 2006, ((~~\$16,105,000~~)) \$21,491,000 of the general fund—state appropriation for fiscal year 2007, and ((~~\$16,111,000~~)) \$18,560,000 of the general fund—federal appropriation are provided solely for development and implementation of the Washington assessments of student learning (WASL), including development and implementation of retake assessments for high school students who are not successful in one or more content areas of the WASL and development of alternative assessments or appeals procedures to implement the certificate of academic achievement. The superintendent of public instruction shall report quarterly on the progress on development of



alternative assessments or appeals procedures. Within these amounts, the superintendent of public instruction shall contract for the early return of 10th grade student WASL results, on or around June 10th of each year. \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to: (i) Investigate the use of existing mathematics assessments in languages other than English as possible means of measuring tenth grade essential academic learnings and standards, including examining the content and rigor of the assessments as well as their reliability and validity; (ii) estimate the cost of translating the tenth grade mathematics WASL into other languages and scoring these assessments should they be implemented; and (iii) develop recommendations for (i) and (ii) of this subsection (a). Funds provided in this section are sufficient to implement section 5 of Engrossed Substitute Senate Bill No. 6475 (alternative assessment options).

(b) \$1,327,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of Engrossed Substitute House Bill No. 3127 (education), including section 2 of that act. If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(c) \$250,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for implementation of section 4 of Engrossed Substitute Senate Bill No. 6255 (student-centered planning) regarding reimbursement of diagnostic assessments.

(2) MATH REMEDIATION

The purpose of this subsection (2) is to strengthen high school student performance in meeting the state standards in mathematics.

(a) Included in the general fund—state amounts provided in subsection (1) of this section is \$2,350,000 which is provided solely for the development of a new tenth grade mathematics assessment tool that: (i) Presents the mathematics essential learnings in segments for assessment; (ii) is comparable in content and rigor to the tenth grade mathematics WASL when all segments are considered together; (iii) is reliable and valid; and (iv) can be used to determine a student's academic performance level.

(b) \$110,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the development of WASL knowledge and skill learning modules to assist students performing at tenth grade Level 1 in mathematics.

(c) \$330,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for development of mathematics knowledge and skill learning modules to teach middle and high school students specific skills that have been identified as areas of difficulty for tenth grade students. The office of the superintendent of public instruction shall develop materials for classroom use and for tutorial learning activities.

(d) \$600,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for development of web-based applications of the curriculum and materials produced under (b) and (c) of this subsection as well as mathematics knowledge and skill modules and materials previously developed by the office of the superintendent of public instruction. The products are to be designed as on-line courses for students needing Level 1 instruction; learning modules accessible to classroom teachers for incorporation into classroom instruction; tutorials that can be used as WASL assessment skill refreshers and as

tutor-guided and parent-guided learning modules; and on-line practice WASLs with supporting item scoring information and student response examples.

(3) PROFESSIONAL DEVELOPMENT

(a) \$548,000 of the fiscal year 2006 general fund—state appropriation and \$548,000 of the fiscal year 2007 general fund—state appropriation are provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.

(b) \$2,348,000 of the general fund—state appropriation for fiscal year 2006 and \$2,348,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260, and for a mentor academy. Up to \$200,000 of the amount in this subsection may be used each fiscal year to operate a mentor academy to help districts provide effective training for peer mentors. Funds for the teacher assistance program shall be allocated to school districts based on the number of first year beginning teachers.

(c) \$705,000 of the general fund—state appropriation for fiscal year 2006 and \$705,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(d) (~~(\$3,010,000)~~) \$3,180,000 of the general fund—state appropriation for fiscal year 2006 and (~~(\$4,018,000)~~) \$4,358,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for salary bonuses, and mandatory fringe benefits, for teachers who attain certification by the national board for professional teaching standards, subject to the following conditions and limitations:

(i) Teachers who hold a valid certificate from the national board during the 2005-06 or 2006-07 school years shall receive an annual bonus not to exceed \$3,500 in each of these school years in which they hold a national board certificate.

(ii) The annual bonus shall be paid in a lump sum amount and shall not be included in the definition of "earnable compensation" under RCW 41.32.010(10).

(e) (~~(\$90,399,000)~~) \$98,761,000 of the general fund—federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

~~((3))~~ (4) SCHOOL IMPROVEMENT

(a) \$338,000 of the general fund—state appropriation for fiscal year 2006 and (~~(\$338,000)~~) \$488,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for a principal support program. The office of the superintendent of public instruction may contract with an independent organization to administer the program. The program shall include: (i) Development of an individualized professional growth plan for a new principal or principal candidate; and (ii) participation of a mentor principal who works over a period of between one and three years with the new principal or principal candidate to help him or her build the skills identified as critical to the success of the professional growth plan. Within the amounts provided, \$25,000 per year shall be used to support additional participation of secondary principals.

(b) \$3,046,000 of the general fund—state appropriation for fiscal year 2006 and \$3,046,000 of the general fund—state appropriation for fiscal year 2007 are

provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Each educational audit shall include recommendations for best practices and ways to address identified needs and shall be presented to the community in a public meeting to seek input on ways to implement the audit and its recommendations.

(c) \$1,000,000 of the general fund—state appropriation for fiscal year 2006 and \$1,000,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for a high school and school district improvement program modeled after the office of the superintendent of public instruction's existing focused assistance program in (b) of this subsection. The state funding for this improvement program will match an equal amount committed by a nonprofit foundation in furtherance of a jointly funded program.

(d) A maximum of \$250,000 of the general fund—state appropriation for fiscal year 2006 and a maximum of \$250,000 of the general fund—state appropriation for fiscal year 2007 are provided for summer accountability institutes offered by the superintendent of public instruction. The institutes shall provide school district staff with training in the analysis of student assessment data, information regarding successful district and school teaching models, research on curriculum and instruction, and planning tools for districts to improve instruction in reading, mathematics, language arts, social studies, including civics, and guidance and counseling. The superintendent of public instruction shall emphasize issues of high school reform and mathematics instruction when offering summer institute programs supported by funds provided in this subsection.

(e) \$515,000 of the general fund—state appropriation for fiscal year 2006 and \$515,000 of the general fund—state appropriation for fiscal year 2007 are provided for the evaluation of reading and mathematics textbooks, other instructional materials, and diagnostic tools to determine the extent to which they are aligned with the state standards. A scorecard of the analysis shall be made available to school districts. The superintendent shall also develop and disseminate information on essential components of comprehensive, school-based math and reading programs and shall develop and disseminate grade level expectations for reading and math which shall include professional development modules and web-based materials.

(f) \$1,764,000 of the general fund—state appropriation for fiscal year 2006 and \$1,764,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the mathematics helping corps subject to the following conditions and limitations:

(i) In order to increase the availability and quality of technical mathematics assistance statewide, the superintendent of public instruction shall employ mathematics school improvement specialists to provide assistance to schools and districts. The specialists shall be hired by and work under the direction of a statewide school improvement coordinator. The mathematics improvement specialists shall not be permanent employees of the superintendent of public instruction.

(ii) The school improvement specialists shall provide the following:

(A) Assistance to schools to disaggregate student performance data and develop improvement plans based on those data;

(B) Consultation with schools and districts concerning their performance on the Washington assessment of student learning and other assessments emphasizing the performance on the mathematics assessments;

(C) Consultation concerning curricula that aligns with the essential academic learning requirements emphasizing the academic learning requirements for mathematics, the Washington assessment of student learning, and meets the needs of diverse learners;

(D) Assistance in the identification and implementation of research-based instructional practices in mathematics;

(E) Staff training that emphasizes effective instructional strategies and classroom-based assessment for mathematics;

(F) Assistance in developing and implementing family and community involvement programs emphasizing mathematics; and

(G) Other assistance to schools and school districts intended to improve student mathematics learning.

(g) \$125,000 of the general fund—state appropriation for fiscal year 2006 and \$125,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the improvement of reading achievement and implementation of research-based reading models. The superintendent shall evaluate reading curriculum programs and other instructional materials to determine the extent to which they are aligned with state standards. A report of the analyses shall be made available to school districts. The superintendent shall report to districts the assessments that are available to screen and diagnose reading difficulties, and shall provide training on how to implement a reading assessment system. Resources may also be used to disseminate grade level expectations and develop professional development modules and web-based materials.

(h) (~~(\$16,758,000)~~) \$30,401,000 of the general fund—federal appropriation is provided for the reading first program under Title I of the no child left behind act.

(i) \$500,000 of the general fund—state appropriation for fiscal year 2007 is provided for the office of the superintendent of public instruction to award five grants to parent, community, and school district partnership programs that will meet the unique needs of different groups of students in closing the achievement gap. The legislature intends that the pilot programs will help students meet state learning standards, achieve the skills and knowledge necessary for college or the workplace, reduce the achievement gap, prevent dropouts, and improve graduation rates. The office of the superintendent of public instruction shall develop and publish the criteria for awarding grants by July 2006.

(i) The pilot programs shall be designed in such a way as to be supplemental to educational services provided in the district and shall utilize a community partnership based approach to helping students and their parents.

(ii) The grant recipients shall work in collaboration with the office of the superintendent of public instruction to develop measurable goals and evaluation methodologies for the pilot programs. \$25,000 of this appropriation may be used by the office of the superintendent of public instruction to hold a statewide meeting to disseminate successful strategies developed by the grantees.

(iii) The office of the superintendent of public instruction shall issue a report to the legislature in the 2007 session on the progress of each of the pilot programs.

~~((4))~~ (5) STUDENT SUPPORTS

(a) \$2,500,000 of the general fund—state appropriation for fiscal year 2006 and ~~(\$2,500,000)~~ \$4,500,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for: (i) The meals for kids program under RCW 28A.235.145 through 28A.235.155; (ii) to eliminate the co-pay for students eligible for reduced price lunch eating breakfast; and (iii) for additional assistance for school districts initiating a summer food service program.

(b) \$125,000 of the general fund—state appropriation for fiscal year 2006 ~~((and \$125,000 of the general fund—state appropriation for fiscal year 2007 are))~~ is provided solely for an early reading grant program for community-based initiatives that develop prereading and early reading skills through parental and community involvement, public awareness, coordination of resources, and partnerships with local school districts. Grant awards shall include funding for one-time start up costs for local affiliates and a one-time partial payment of school district dues to local affiliates of up to 30 percent of the per student dues amount. Grant applications shall include:

(i) Strategies for parental involvement emphasizing ages birth to five and outreach to diverse communities;

(ii) Evidence of collaboration with, and support from, local school districts, and how the activities funded in the grant are complementary to the reading improvement efforts of local school districts;

(iii) A plan for community participation and coordination of resources including in-kind and financial support by public and private sector partners;

(iv) Measurable goals and evaluation methodology to determine impact;

(v) Integration of reading strategies from the Washington state early learning and development benchmarks;

(vi) A plan for marketing and public relations;

(vii) Strategies for sustaining the program when grant funding is no longer available; and

(viii) Evidence of district commitment to reading improvement, aligned curriculum, progress monitoring, and time-on-task.

(c) \$850,000 of the general fund—state appropriation for fiscal year 2006 and \$850,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the Washington reading corps. The superintendent shall allocate reading corps members to low-performing schools and school districts that are implementing comprehensive, proven, research-based reading programs. Two or more schools may combine their Washington reading corps programs. Grants provided under this section may be used by school districts for expenditures from September 2005 through August 31, 2007.

(d) \$3,594,000 of the general fund—state appropriation for fiscal year 2006 and \$3,594,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for

coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

~~((5))~~ (6) TECHNOLOGY

(a) \$1,959,000 of the general fund—state appropriation for fiscal year 2006 and \$1,959,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW. The superintendent of public instruction shall coordinate a process to facilitate the evaluation and provision of online curriculum courses to school districts which includes the following: Creation of a general listing of the types of available online curriculum courses; a survey conducted by each regional educational technology support center of school districts in its region regarding the types of online curriculum courses desired by school districts; a process to evaluate and recommend to school districts the best online courses in terms of curriculum, student performance, and cost; and assistance to school districts in procuring and providing the courses to students.

(b) \$126,000 of the general fund—state appropriation for fiscal year 2006 and \$126,000 of the general fund—state appropriation for fiscal year 2007 are provided for the development and posting of web-based instructional tools, assessment data, and other information that assists schools and teachers implementing higher academic standards.

Sec. 513. 2005 c 518 s 514 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$59,673,000)</del>
	<u>\$58,205,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$63,535,000)</del>
	<u>\$61,608,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$45,561,000)</del>
	<u>\$51,741,000</u>
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$504,000</u>
TOTAL APPROPRIATION . . . . .	<del>(\$168,769,000)</del>
	<u>\$172,058,000</u>

The appropriations in this section are subject to the following conditions and limitations:

- (1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.
- (2) The superintendent shall distribute a maximum of ~~(\$757.72)~~ \$759.58 per eligible bilingual student in the 2005-06 school year and ~~(\$763.70)~~ \$770.40 in the 2006-07 school year, exclusive of salary and benefit adjustments provided in section 504 of this act.
- (3) The superintendent may withhold up to 1.5 percent of the school year allocations to school districts in subsection (2) of this section, and adjust the per

eligible pupil rates in subsection (2) of this section accordingly, solely for the central provision of assessments as provided in RCW 28A.180.090 (1) and (2).

(4) \$70,000 of the amounts appropriated in this section are provided solely to develop a system for the tracking of current and former transitional bilingual program students.

(5) The general fund—federal appropriation in this section is provided for migrant education under Title I Part C and English language acquisition, and language enhancement grants under Title III of the elementary and secondary education act.

**Sec. 514.** 2005 c 518 s 515 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$65,434,000)</del>
	<u>\$65,018,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$65,367,000)</del>
	<u>\$64,626,000</u>
Education Legacy Trust Account—State Appropriation . . . . .	\$24,605,000
<u>Pension Funding Stabilization Account Appropriation . . . . .</u>	<u>\$553,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$343,227,000)</del>
	<u>\$348,351,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<del><b>(\$498,633,000)</b></del>
	<u><b>\$503,153,000</b></u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The general fund—state ~~((and education legacy trust account))~~ appropriations in this section are subject to the following conditions and limitations:

(a) The appropriations include such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(b) Funding for school district learning assistance programs shall be allocated at maximum rates of ~~(((\$184.29))~~ \$184.69 per funded student for the 2005-06 school year and ~~(((\$186.03))~~ \$187.97 per funded student for the 2006-07 school year exclusive of salary and benefit adjustments provided under section 504 of this act.

(c) A school district's funded students for the learning assistance program shall be the sum of the following as appropriate:

(i) The district's full-time equivalent enrollment in grades K-12 for the prior school year multiplied by the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch in the prior school year; and

(ii) If, in the prior school year, the district's percentage of October headcount enrollment in grades K-12 eligible for free or reduced price lunch exceeded forty percent, subtract forty percent from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the prior school year.

(d) In addition to amounts allocated in (b) and (c) of this subsection, an additional amount shall be allocated to a school district for each school year in which the district's allocation is less than the amount the district received for the

general fund—state learning assistance program allocation in the 2004-05 school year. The amount of the allocation in this section shall be sufficient to maintain the 2004-05 school year allocation.

(2) Increases in a school district's allocation above the 2004-05 school year level shall be directed to grades nine through ~~((twelve))~~ ten for the 2006-07 school year. ~~((Districts are encouraged to offer remediation courses in the summer for students who fail the tenth grade WASL.))~~

(3) The general fund—federal appropriation in this section is provided for Title I Part A allocations of the no child left behind act of 2001.

(4) Small school districts are encouraged to make the most efficient use of the funding provided by using regional educational service district cooperatives to hire staff, provide professional development activities, and implement reading and mathematics programs consistent with research-based guidelines provided by the office of the superintendent of public instruction.

(5) A school district may carry over from one year to the next up to 10 percent of the general fund—state or education legacy trust funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

(6) School districts are encouraged to coordinate the use of these funds with other federal, state, and local sources to serve students who are below grade level and to make efficient use of resources in meeting the needs of students with the greatest academic deficits.

NEW SECTION. Sec. 515. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—  
PROMOTING ACADEMIC SUCCESS**

General Fund—State Appropriation (FY 2006) . . . . .	\$3,842,000
General Fund—State Appropriation (FY 2007) . . . . .	\$23,879,000
Pension Funding Stabilization Account Appropriation . . . . .	\$189,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$27,910,000</b>

The appropriations in this section are subject to the following conditions and limitations:

(1) The amounts appropriated in this section are provided solely for remediation for students who have not met standard in one or more content areas of the WASL in the spring of their tenth grade year and on each retake thereafter. The funds may be used for extended learning activities, including summer school, before and after school, Saturday classes, skill seminars, assessment preparation, and in-school or out-of-school tutoring. Extended learning activities may occur on the school campus, via the internet, or at other locations and times that meet student needs. Funds allocated under this section shall not be considered basic education funding. Amounts allocated under this section shall fund new extended learning opportunities, and shall not supplant funding for existing programs and services.

(2) School district allocations for promoting academic success programs shall be calculated as follows:

(a) A portion of the district's student units shall be the number of content area assessments (reading, writing, and mathematics) on which students were more than one standard error of measurement from meeting standard on the



Washington assessment of student learning for the current class of eleventh grade students.

(b) The other portion of the district's student units shall be the number of content area assessments (reading, writing, and mathematics) on which students were less than one standard error of measurement from meeting standard but did not meet standard on the Washington assessment of student learning for the current class of eleventh grade students. Districts with at least one but less than 20 student units combining the student units generated from this subsection and (a) of this subsection shall be counted as having 20 student units for the purposes of the allocations in (d) and (e)(i) of this subsection.

(c) The legislature recognizes that professional development and planning for teachers is an important component of high quality extended learning activities. Accordingly, a one-time funding amount equal to 12 hours of certificated instructional staff units per 13.0 student units, as calculated in (a) and (b) of this subsection, is provided in this section to ensure that extended learning activities are of high quality and aligned to the state's essential academic learning requirements.

(d) Allocations for certificated instructional staff salaries and benefits shall be determined using formula-generated staff units calculated pursuant to this subsection. Ninety-four hours of certificated instructional staff units are allocated per 13.0 student units as calculated under (a) of this subsection and thirty-four hours of certificated instructional staff units are allocated per 13.0 student units as calculated under (b) of this subsection. Allocations for salaries and benefits for the staff units calculated under this subsection shall be calculated in the same manner as provided under section 503 of this act. Salary and benefit increase funding for staff units generated under this section is included in section 504 of this act.

(e) The following additional allocations are provided per student unit, as calculated in (a) and (b) of this subsection:

- (i) \$12.50 for maintenance, operations, and transportation;
- (ii) \$12.00 for pre- and post-remediation assessments;
- (iii) \$17.00 per reading remediation student unit;
- (iv) \$8.00 per mathematics remediation student unit; and
- (v) \$8.00 per writing remediation student unit.

(f) The superintendent of public instruction shall distribute school year allocations according to the monthly apportionment schedule defined in RCW 28A.510.250.

(3) School districts shall report annually to the office of the superintendent of public instruction on the use of these funds, including the types of assistance selected by students, the number of students receiving each type of assistance, and the impact on WASL test scores.

(4) \$708,000 of the general fund—state appropriation for fiscal year 2006 and \$3,408,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for additional one-time allocations to offer remedial programs for students in the class of 2007 or other students who have not achieved success on the tenth grade WASL. The formula for distributing the allocations to school districts shall include amounts for students in the class of 2007 who register to retake the WASL and want remedial assistance, and other factors as determined by the office of the superintendent of public instruction. Before making the

allocations from the funding provided in this subsection, the office of the superintendent of public instruction shall consult with the office of financial management to ensure that the proposed allocations will achieve efficient and effective program delivery and that they are one-time in nature.

(5) \$1,500,000 of the general fund—state appropriation for fiscal year 2007 is provided for competitive innovation grants awarded to schools and school districts for implementing high school remediation programs that are unique in program delivery, program accessibility, program content, or a combination of these factors and that serve students who have not achieved success on the tenth grade WASL.

(6) School districts may carry over from one year to the next up to 20 percent of funds allocated under this program; however, carryover funds shall be expended for promoting academic success programs, and may be used to provide extended learning programs for students beyond their eleventh grade year who want continued remedial assistance to pass the WASL.

Sec. 516. 2005 c 518 s 516 (uncodified) is amended to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STUDENT ACHIEVEMENT PROGRAM**

Student Achievement Account—State Appropriation . . . . .(~~\$629,356,000~~)  
\$630,537,000

The appropriation in this section is subject to the following conditions and limitations:

(1) Funding for school district student achievement programs shall be allocated at a maximum rate of \$300.00 per FTE student for the 2005-06 school year and \$375.00 per FTE student for the 2006-07 school year. For the purposes of this section, FTE student refers to the annual average full-time equivalent enrollment of the school district in grades kindergarten through twelve for the prior school year, as reported to the office of the superintendent of public instruction by August 31st of the previous school year.

(2) The appropriation is allocated for the following uses as specified in RCW 28A.505.210:

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extended day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school; or

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection (2).

(3) The superintendent of public instruction shall distribute the school year allocation according to the monthly apportionment schedule defined in RCW 28A.510.250.

NEW SECTION. Sec. 517. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION.** (1) Appropriations made in this act to the office of the superintendent of public instruction shall initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act, except as expressly provided in subsection (2) of this section.

(2) The appropriations to the office of the superintendent of public instruction in this act shall be expended for the programs and amounts specified in this act. However, after May 1, 2006, unless specifically prohibited by this act and after approval by the director of financial management, the superintendent of public instruction may transfer state general fund appropriations for fiscal year 2006 among the following programs to meet the apportionment schedule for a specified formula in another of these programs: General apportionment; employee compensation adjustments; pupil transportation; special education programs; institutional education programs; transitional bilingual programs; and learning assistance programs.

(3) The director of financial management shall notify the appropriate legislative fiscal committees in writing prior to approving any allotment modifications or transfers under this section.

\*NEW SECTION. Sec. 518. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF EARLY LEARNING**

General Fund—State Appropriation (FY 2006) . . . . .	\$100,000
General Fund—State Appropriation (FY 2007) . . . . .	\$32,504,000
General Fund—Federal Appropriation . . . . .	\$180,000
TOTAL APPROPRIATION . . . . .	\$32,784,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$29,941,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for providing early childhood education assistance. Of this amount, \$1,497,000 is provided solely to increase the number of children receiving education and \$2,146,000 is provided solely for a targeted vendor rate increase.

(2) \$525,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for an early reading grant program for community-based initiatives that develop prereading and early reading skills through parental and community involvement, public awareness, coordination of resources, and partnerships with local school districts. If Substitute House Bill No. 2836

(reading achievement account) is enacted by June 30, 2006, this amount shall be deposited in the reading achievement account. Grant awards shall include funding for one-time start up costs for local affiliates and a one-time partial payment of school district dues to local affiliates of up to 30 percent of the per student dues amount. Grant applications shall include:

- (a) Strategies for parental involvement emphasizing ages birth to five and outreach to diverse communities;
- (b) Evidence of collaboration with, and support from, local school districts, and how the activities funded in the grant are complementary to the reading improvement efforts of local school districts;
- (c) A plan for community participation and coordination of resources including in-kind and financial support by public and private sector partners;
- (d) Measurable goals and evaluation methodology to determine impact;
- (e) Integration of reading strategies from the Washington state early learning and development benchmarks;
- (f) A plan for marketing and public relations;
- (g) Strategies for sustaining the program when grant funding is no longer available; and
- (h) Evidence of district commitment to reading improvement, aligned curriculum, progress monitoring, and time-on-task.

(3) \$1,000,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the child care career and wage ladder program created by chapter 507, Laws of 2005.

*(4) If a bill creating the department of early learning is not enacted by June 30, 2006, the appropriations for the department of early learning in this section shall lapse and shall be appropriated as follows:*

**(a) FOR THE DEPARTMENT OF COMMUNITY TRADE AND ECONOMIC DEVELOPMENT**

*General Fund—State Appropriation (FY 2007) . . . . . \$29,941,000*

*This appropriation is provided solely for providing early childhood education assistance. Of this amount, \$1,497,000 is provided solely to increase the number of children receiving education and \$2,146,000 is provided solely for a targeted vendor rate increase.*

**(b) FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—STATE AGENCY OPERATIONS**

*General Fund—State Appropriations (FY 2007) . . . . . \$525,000*

*This appropriation is provided solely for an early reading grant program for community-based initiatives that develop prereading and early reading skills through parental and community involvement, public awareness, coordination of resources, and partnerships with local school districts and shall be used in accordance with the requirements set forth in subsection (2) of this section.*

**(c) FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ECONOMIC SERVICES PROGRAM**

*General Fund—State Appropriation (FY 2007) . . . . . \$1,000,000*

*General Fund—Federal Appropriation . . . . . \$180,000*

***TOTAL APPROPRIATION . . . . . \$1,180,000***

*The appropriations in this subsection are subject to the following conditions and limitations:*

*(i) \$180,000 of the general fund—federal appropriation is provided solely for the headstart—state collaboration office.*

*(ii) \$1,000,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the child care career and wage ladder program created by chapter 507, Laws of 2005.*

*(d) The remainder of the appropriations in this section shall lapse.*

\*Sec. 518 was partially vetoed. See message at end of chapter.

**PART VI  
HIGHER EDUCATION**

**Sec. 601.** 2005 c 518 s 602 (uncodified) is amended to read as follows:

(1) The appropriations in sections ((603)) 602 through ((609)) 608 of this act provide state general fund support for full-time equivalent student enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institutions assumed in this act.

	2005-06 Annual Average		2006-07 Annual Average
University of Washington			
Main campus	33,037	((33,217))	<u>33,367</u>
Bothell branch	1,340		1,540
Tacoma branch	1,644		1,869
Washington State University			
Main campus	((18,695))	<u>18,696</u>	((18,910))
Tri-Cities branch	((675))	<u>690</u>	((700))
Vancouver branch	1,353		1,678
Central Washington University	8,323		8,649
Eastern Washington University	8,593		8,919
The Evergreen State College	4,038		4,143
Western Washington University	((11,559))	<u>11,534</u>	((11,729))
State Board for Community and Technical Colleges	130,905		((133,040))
<u>Higher Education Coordinating Board</u>			<u>80</u>

(2) For the state universities, the number of full-time equivalent student enrollments enumerated in this section for the branch campuses are the minimum required enrollment levels for those campuses. At the start of an academic year, the governing board of a state university may transfer full-time equivalent student enrollments from the main campus to one or more branch campus. Intent notice shall be provided to the office of financial management and reassignment of funded enrollment is contingent upon satisfying data needs of the forecast division who is responsible to track and monitor state-supported college enrollment.

\*Sec. 602. 2005 c 518 s 603 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

General Fund—State Appropriation (FY 2006) . . . . .	(\$556,499,000))
	<u>\$558,880,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$556,220,000))
	<u>\$587,085,000</u>
Administrative Contingency Account—State	
Appropriation . . . . .	\$2,950,000
Education Legacy Trust—State Appropriation . . . . .	\$46,669,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$1,276,000</u>
TOTAL APPROPRIATION . . . . .	(\$1,172,338,000))
	<u>\$1,196,860,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) The technical colleges may increase tuition and fees in excess of the fiscal growth factor to conform with the percentage increase in community college operating fees.

(2) \$539,000 of the general fund—state appropriation for fiscal year 2006 and \$540,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the displaced homemakers program.

(3) Access to baccalaureate and graduate degree programs continues to be limited for residents of North Snohomish, Island, and Skagit counties. The higher education consortium created to serve the region has not been able to successfully address the region's access needs. The university center model of service delivery, centered on a community college campus with a single point of accountability, has proven more effective in developing degree programs and attracting students.

Therefore, the management and leadership responsibility for consortium operations are assigned to Everett community college. Everett community college shall collaborate with community and business leaders, other local community colleges, the public four-year institutions of higher education, and the higher education coordinating board to develop an educational plan for the North Snohomish, Island, and Skagit county region based on the university center model.

(4) \$50,000 of the general fund—state appropriation for fiscal year 2006 and \$50,000 of the general fund—state appropriation for fiscal year 2007 are

provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(5) \$28,761,000 of the general fund—state appropriation for fiscal year 2006 and \$28,761,000 of the general fund—state appropriation for fiscal year 2007 are provided solely as special funds for training and related support services, including financial aid, as specified in chapter 226, Laws of 1993 (employment and training for unemployed workers). Funding is provided to support up to 6,200 full-time equivalent students in each fiscal year.

(6) \$2,000,000 of the education legacy trust appropriation for fiscal year 2006 and \$2,000,000 of the education legacy trust appropriation for fiscal year 2007 are provided solely for basic skills education at community and technical colleges and community-based providers. These funds may be used to align or integrate adult basic education and English as a second language courses with vocational training.

(7) The appropriations for higher education employee compensation increases provided or referenced in this section and described in sections 949 through 980 of this act are estimated to increase the total per student funding during the 2005-2007 biennium. This increase in total per student funding is in addition to the tuition revenues that will be generated and retained by the community and technical colleges as a result of the tuition increases that are authorized in section 601 of this act. Given these increases in core funding, the state board for community and technical colleges shall, by June 30, 2007, show demonstrable progress toward achieving the following six-year programmatic goals:

- (a) Increase the number of academic students who are eligible to transfer to baccalaureate institutions;
- (b) Increase the number of students prepared for work; and
- (c) Increase the number of basic skills students who demonstrate substantive skill gain.

Specific six-year targets for the goals stated in this subsection shall be established by the state board and the office of financial management and shall be determined based on the per student funding level assumed in this act.

The state board for community and technical colleges shall provide a summary of the progress and ongoing efforts toward meeting the provisions of this section to the governor and the appropriate fiscal and policy committees of the legislature prior to November 1, 2006.

(8) \$11,070,000 of the education legacy trust appropriation for fiscal year 2006 and \$22,599,000 of the education legacy trust appropriation for fiscal year 2007 are provided to increase budgeted enrollments by 2,050 student FTEs in academic year 2006 and an additional 2,135 student FTEs in academic year 2007. By December 15th of each year of the 2005-07 fiscal biennium, the board shall report to the office of financial management and the legislative fiscal committees the number of new student FTEs enrolled with the funding provided in this subsection.

(9) \$2,250,000 of the education legacy trust appropriation for fiscal year 2006 and \$2,250,000 of the education legacy trust appropriation for fiscal year 2007 are provided solely to increase salaries and related benefits for part-time faculty. A college district may match the state funds with local revenue. The board shall report by January 30, 2006, to the office of financial management

and the appropriate fiscal and policy committees of the legislature on (a) the distribution of state funds, and (b) wage adjustments for part-time faculty.

(10) \$2,250,000 of the education legacy trust appropriation for fiscal year 2006, \$1,500,000 of the general fund—state appropriation for fiscal year 2007, and \$2,250,000 of the education legacy trust appropriation for fiscal year 2007 are provided solely for faculty salary increments and associated benefits and may be used in combination with salary and benefit savings from faculty turnover to provide salary increments and associated benefits for faculty who qualify through professional development and training. To the extent general salary increase funding is used to pay faculty increments, the general salary increase shall be reduced by the same amount. Beginning in fiscal year 2007, the state board shall determine the method of allocating to the community and technical colleges the appropriations granted for academic employee increments, provided that the amount of the appropriation attributable to the proportionate share of the part-time faculty salary base shall only be accessible for part-time faculty.

(11) \$1,000,000 of the general fund—state appropriation for fiscal year 2007 and \$2,950,000 of the administrative contingency account—state appropriation ((is)) are provided solely for administration and customized training contracts through the job skills program, which shall be made available broadly and not to the exclusion of private nonprofit baccalaureate degree granting institutions or vocational arts career schools operating in Washington state who partner with a firm, hospital, group, or industry association concerned with commerce, trade, manufacturing, or the provision of services to train current or prospective employees. The state board shall make an annual report by January 1 of each fiscal year to the governor and appropriate policy and fiscal committees of the legislature regarding the implementation of this section listing the scope of grant awards, the distribution of funds by educational sector and region of the state, and the successful partnerships supported by these state funds. The board, through the smart buy program, is encouraged to seek efficiencies in purchasing goods and services. Additional funds may be expended for the job skills program to the extent that savings are achieved from more efficient procurement processes.

(12) \$904,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for start-up and planning funds for four applied baccalaureate degree programs at community and technical colleges as authorized in RCW 28B.50.810. The applied baccalaureate degrees shall be specifically designed for individuals who hold associate of applied science degrees, or equivalent, in order to maximize application of their technical course credits toward the applied baccalaureate degree.

(13) \$156,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for three community and technical college partnerships with universities as authorized in RCW 28B.50.820. This appropriation is in addition to funding provided for 2005-07 general growth enrollments. The community and technical college system shall serve 120 student FTEs in this program within the targeted enrollments established by section 601 of this act.

(14) \$761,000 of the general fund--state appropriation for fiscal year 2006 is provided solely for extraordinary natural gas cost expenses.



(15) \$4,000,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the opportunity grants pilot program to provide funding for a program designed to test strategies for increasing access to postsecondary education for low income students in job-specific programs.

(a) Grant funds may be used for tuition, books, fees, and other expenses associated with attending a work force education program.

(b) Students must be enrolled and maintain satisfactory progress in a program linked to skills standards or industry credentials.

(c) Community and technical colleges that are selected as pilot colleges to administer the opportunity grants shall coordinate student benefits with the higher education coordinating board for those students who are also accessing traditional forms of financial aid, such as the state need grant, pell grant, and other aid programs administered by the higher education coordinating board under their authority in RCW 28B.76.500. Funds disbursed under this section shall not supplant federal grant or work-study forms of financial aid.

(d) The state board for community and technical colleges and the higher education coordinating board shall jointly conduct an evaluation and submit a report to the legislature and the governor no later than November 15, 2008.

**(16) \$75,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for community and technical colleges to work with a nonprofit organization that has been established to address work force development issues by a recognized statewide organization of employers representing a majority of employers in the state and the workforce education training board, to identify high demand occupations, convene industry groups to develop or utilize skills standards and credentials in those occupations and market the standards and credentials to educational institutions and employers.**

(17) \$325,000 of the general fund--state appropriation for fiscal year 2007 is provided solely to implement the provisions of Substitute House Bill No. 3113 (access to higher education). This appropriation is in addition to funding provided for 2005-07 general growth enrollments. The community and technical college system shall serve 250 student FTEs in this program within the targeted enrollments established by section 601 of this act. If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(18) \$150,000 of the general fund—state appropriation for fiscal year 2007 is provided solely as matching funds for strategic statewide partnerships with health care providers or facilities to address the health workforce shortage. Partnerships funded under this subsection may include efforts to increase the capacity of community and technical colleges to educate students enrolled in health professions programs, improve retention of health care workers, improve knowledge of the health industry workforce, and increase the number of youth and diverse populations in the health work force. Health care providers or facilities participating in partnerships under this subsection shall provide a one dollar match for each state dollar provided.

(19) \$150,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for the fire fighter apprenticeship program at South Seattle Community College.

(20) \$275,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the transitions math project. The state board will serve as

the fiscal agent for the project. The project will include representation from the K-12 system, the community and technical colleges, and public four-year institutions. The project will: (a) Provide outreach and standards-based instructional materials to support local high school and college partnerships to enhance student expectations regarding college math courses; and (b) improve the math placement testing process at Washington's colleges and universities.

(21) \$1,500,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to increase enrollments by 187 full-time equivalent students in high-demand fields in fiscal year 2007. High-demand fields are programs where enrollment access is limited and employers are experiencing difficulty finding qualified graduates to fill job openings. The state board for community and technical colleges shall track enrollments, graduation rates, and job placement for each program that receives high-demand enrollments using data provided by each recipient institution. The board shall report on these outcomes by November 1 of each fiscal year to the office of financial management and the fiscal and higher education committees of the legislature. The enrollment increases provided in this subsection shall be limited to new students only and may not be used to pay for students currently enrolled by the institutions.

*(22) \$140,000 of the general fund—state appropriation is provided solely to implement a nursing faculty retention and recruitment pilot project. Yakima valley community college and another community college located in the western part of the state selected by the board will receive funding to raise nursing faculty salaries by \$10,000 for fiscal year 2007. The board will report to the legislature by January 1, 2007, on the impact of the pilot project on nursing faculty retention and recruitment.*

(23)(a) \$75,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Second Substitute Senate Bill No. 6326 (customized workforce). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(b) \$3,075,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for deposit into the employment training finance account, pursuant to Second Substitute Senate Bill No. 6326 (customized workforce). If the bill is not enacted by June 30, 2006, the amount deposited in this subsection shall lapse.

(24) \$768,000 of the general fund--state appropriation for fiscal year 2007 is provided solely to implement the provisions of Second Substitute House Bill No. 2583 (community and technical college employees). If the bill is not enacted by June 30, 2006, the amount provided shall lapse.

*(25) Funding is sufficient within the general fund—state appropriation for fiscal year 2007 for implementation of Engrossed Second Substitute House Bill No. 2582 (high school completion program).*

\*Sec. 602 was partially vetoed. See message at end of chapter.

\*Sec. 603. 2005 c 518 s 604 (uncodified) is amended to read as follows:

<b>FOR THE UNIVERSITY OF WASHINGTON</b>	
General Fund—State Appropriation (FY 2006) . . . . .	(\$336,644,000))
	\$337,629,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$344,118,000))
	\$352,714,000

General Fund—Private/Local Appropriation . . . . .	\$300,000
Accident Account—State Appropriation . . . . .	(\$6,204,000)
	<u>\$6,209,000</u>
Medical Aid Account—State Appropriation . . . . .	(\$6,141,000)
	<u>\$6,143,000</u>
Education Legacy Trust—State Appropriation. . . . .	\$10,748,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation. . . . .</u>	<u>\$604,000</u>
TOTAL APPROPRIATION . . . . .	(\$704,155,000)
	<u>\$714,347,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$165,000 of the general fund—state appropriation for fiscal year 2006 and \$165,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of the Puget Sound work plan and agency action item UW-01.

(2) \$300,000 of the general fund—private/local appropriation is provided solely for shellfish biotoxin monitoring as specified in chapter 263, Laws of 2003 (SSB 6073, shellfish license fee).

(3)(a) \$3,057,000 of the education legacy trust appropriation for fiscal year 2006 and \$7,691,000 of the education legacy trust appropriation for fiscal year 2007 are provided as the state subsidy for 360 new enrollments at the Seattle campus, 325 new enrollments at the Tacoma campus, and 275 new enrollments at the Bothell campus. By December 15th of each year of the 2005-07 fiscal biennium, the university shall report to the office of financial management and the legislative fiscal committees the number of new student FTEs by campus enrolled with the funding provided in this subsection.

(b) \$2,500,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for 150 additional high-demand student enrollments. The university shall make it a priority to expand access to baccalaureate programs in engineering, math, and science. By December 15, 2006, the university shall report to the office of financial management and the legislative fiscal committees the number of new student FTEs enrolled with the funding provided in this subsection.

(4) The appropriations for higher education employee compensation increases provided or referenced in this section and described in sections 949 through 980 of this act are estimated to increase the total per student funding during the 2005-2007 biennium. This increase in total per student funding is in addition to the tuition revenues that will be generated and retained by the university as a result of the tuition increases that are authorized in section 601 of this act. Given these increases in core funding, the University of Washington shall, by June 30, 2007, show demonstrable progress toward achieving the following six-year programmatic goals:

- (a) Improve time to degree as measured by the percent of admitted students who graduate within 125% of the credits required for a degree;
- (b) Preserve access for low-income students as measured by the percentage of total degrees awarded to Pell Grant recipients;
- (c) Improve freshman retention rates;

(d) Improve and sustain the quality of its degree programs as measured by the number of programs that are ranked in the top twenty nationally;

(e) Sustain the quality of its research programs as measured by the national ranking for federal research grants received; and

(f) Improve its ability to prepare students for the workforce as measured by the job placement or graduate school acceptance rates among graduates.

Specific six-year targets for the goals stated in this subsection shall be established by the university, the office of financial management, and the higher education coordinating board and shall be determined based on the per student funding level assumed in this act.

On or before (~~October~~) November 1, 2006, the university shall submit to the higher education coordinating board a report that outlines the institution's progress and ongoing efforts toward meeting the provisions of this section. The higher education coordinating board shall compile and analyze all responses and provide a summary to the governor and the appropriate fiscal and policy committees of the legislature prior to (~~November~~) December 1, 2006.

(5) \$200,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to assist the transition of University of Washington-Tacoma and University of Washington-Bothell from branch campuses serving upper-division students, to four-year campuses serving freshmen, sophomores, and upper-division students. Funds may be used to develop curricula, recruit new faculty, and expand student services. Consistent with the recommendations of the higher education coordinating board, UW-Tacoma and UW-Bothell may begin enrolling lower-division students beginning in fiscal year 2007.

(6) \$30,000 of the general fund—state appropriation for fiscal year 2006 and \$30,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for research on labor and economic issues in Washington state through the Harry Bridges center.

(7) \$146,000 of the general fund—state appropriation for fiscal year 2006 and (~~\$146,000~~) \$296,000 of the general fund—state appropriation for the fiscal year 2007 are provided solely to the Burke Museum to enhance the museum's public outreach capabilities.

(8) \$125,000 of the general fund—state appropriation for fiscal year 2006 and \$125,000 of the general fund—state appropriation for the fiscal year 2007 are provided solely to the institute for learning and brain sciences (ILABS) to develop a partnership, linking ILABS to policymakers, private sectors and user-groups.

(9) The University of Washington medical center shall provide inpatient and outpatient hospital services to offenders confined in department of corrections facilities at a rate no greater than the average rate that the department of corrections has negotiated with other community hospitals in Washington state.

(10) \$75,000 of the general fund—state appropriation for fiscal year 2006 and \$75,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the Olympic natural resources center.

(11) \$350,000 of the general fund—state appropriation for fiscal year 2006 and (~~\$350,000~~) \$450,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to maintain the autism center at the University of Washington-Tacoma campus. The facility will continue to function as a satellite

facility to the autism center at the University of Washington medical center in Seattle and provide clinical service and professional training.

(12) \$2,400,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to increase the university's capacity to conduct research in the life science fields.

(13) \$400,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for improvements to the Pacific Northwest seismic network.

(14) \$1,008,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for extraordinary natural gas cost expenses.

(15) \$500,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the university to implement a department of global health. The school of medicine and the school of public health and community medicine will jointly form and operate the department. The focus will be establishing sustainable improvements in global health through public health policy, practice, and medical care.

(16) \$2,000,000 of the general fund--state appropriation for fiscal year 2007 is provided solely to pay for operations and maintenance costs of the bioengineering and genome sciences buildings that will come on line during the 2005-07 biennium.

(17) \$150,000 of the general fund--state appropriation for fiscal year 2007 is provided solely to expand the Washington search for young scholars program at the Robinson center at the University of Washington.

*(18) \$125,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for the college of education at the University of Washington to conduct a review of curriculum offered by public schools in Washington. The purpose of this review is to examine the extent to which the curriculum offered by these institutions fully and accurately include the history, contributions, and contemporary experiences of people of color. The review will include the identification of barriers which may impede school districts from successfully adopting and using these types of curriculum. The report by the university is due to the legislature by December 1, 2007.*

(19) \$300,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for math engineering science achievement (MESA) Washington to establish centers throughout the state.

\*Sec. 603 was partially vetoed. See message at end of chapter.

**\*Sec. 604.** 2005 c 518 s 605 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$206,494,000</del> ))
	<u>\$206,511,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$211,870,000</del> ))
	<u>\$213,500,000</u>
Education Legacy Trust—State Appropriation. . . . .	\$11,162,000
Pension Funding Stabilization Account—State	
Appropriation. . . . .	\$293,000
TOTAL APPROPRIATION . . . . .	(( <del>\$429,526,000</del> ))
	<u>\$431,466,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$210,000 of the general fund—state appropriation for fiscal year 2006 and \$210,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the implementation of the Puget Sound work plan and agency action item WSU-01.

(2)(a) \$2,741,000 of the education legacy trust appropriation for fiscal year 2006 and \$6,900,000 of the education legacy trust appropriation for fiscal year 2007 are provided as the state subsidy for 430 new enrollments at the Pullman campus, 450 new enrollments at the Vancouver campus, and 25 new enrollments at the Tri-Cities campus. By December 15th of each year of the 2005-07 fiscal biennium, the university shall report to the office of financial management and the legislative fiscal committees the number of new student FTEs by campus enrolled with the funding provided in this subsection.

(b) \$1,174,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for 80 additional high demand student enrollments. The university shall make it a priority to expand baccalaureate and graduate level access to nursing programs and to expand baccalaureate programs in engineering and construction management. By December 15, 2006, the university shall report to the office of financial management and the legislative fiscal committees the number of new student FTEs enrolled with the funding provided in this subsection.

(3) The appropriations for higher education employee compensation increases provided or referenced in this section and described in sections 949 through 980 of this act are estimated to increase the total per student funding during the 2005-2007 biennium. This increase in total per student funding is in addition to the tuition revenues that will be generated and retained by the university as a result of the tuition increases that are authorized in section 601 of this act. Given these increases in core funding, Washington State University shall, by June 30, 2007, show demonstrable progress toward achieving the following six-year programmatic goals:

- (a) Improve time to degree as measured by the percent of admitted students who graduate within 125% of the credits required for a degree;
- (b) Preserve access for low-income students as measured by the percentage of total degrees awarded to Pell Grant recipients;
- (c) Improve freshman retention rates;
- (d) Improve and sustain the quality of its degree programs as measured by the number of programs that are ranked in the top twenty nationally;
- (e) Sustain the quality of its research programs as measured by the national ranking for federal research grants received; and
- (f) Improve its ability to prepare students for the workforce as measured by the job placement or graduate school acceptance rates among graduates.

Specific six-year targets for the goals stated in this subsection shall be established by the university, the office of financial management, and the higher education coordinating board and shall be determined based on the per student funding level assumed in this act.

On or before (~~October~~) November 1, 2006 the university shall submit to the higher education coordinating board a report that outlines the institution's progress and ongoing efforts toward meeting the provisions of this section. The higher education coordinating board shall compile and analyze all responses and

provide a summary to the governor and the appropriate fiscal and policy committees of the legislature prior to (~~November~~) December 1, 2006.

(4) \$507,000 of the education legacy trust appropriation for fiscal year 2006 and \$1,014,000 of the education legacy trust appropriation for fiscal year 2007 are provided solely to expand the entering class of veterinary medicine students by 16 resident student FTEs each academic year during the 2005-2007 biennium.

(5) \$350,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to assist the transition of Washington State University-Vancouver from a branch campus serving only upper-division students, to a four-year campus serving freshmen, sophomores, and upper-division students. Funds may be used to develop curricula, recruit new faculty, and expand student services. Consistent with the recommendations of the higher education coordinating board, WSU-Vancouver may begin enrolling lower-division students beginning in fiscal year 2007.

(6) The university shall give consideration to reprioritizing agricultural research funding to allow for expansion of the center for precision agricultural systems and development of the biologically intensive and organic agriculture program.

(7) \$25,000 of the general fund—state appropriation for fiscal year 2006 and \$25,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to study the cost of complying with vehicle licensing and registration laws. Funding is subject to the passage of House Bill No. 1241 (modifying vehicle licensing and registration penalties). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(8) \$42,000 of the general fund—state appropriation for fiscal year 2006 and \$43,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to implement Senate Bill No. 5101 (providing incentives to support renewable energy). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(9) \$200,000 of the general fund--state appropriation for fiscal year 2006 and \$200,000 of the general fund--state appropriation for fiscal year 2007 are provided solely to conduct research on alternatives for controlling ghost shrimp in Willapa bay.

(10) \$716,000 of the general fund--state appropriation for fiscal year 2006 is provided solely for extraordinary natural gas cost expenses.

(11) \$250,000 of the general fund--state appropriation for fiscal year 2007 is provided solely to assist the Washington State University (WSU) Tri-Cities in planning the transition from a branch campus serving upper-division students, to a four-year campus serving freshmen, sophomores, and upper-division students. Funds may be used to develop curricula, recruit new faculty, and expand student services. WSU Tri-Cities may begin enrolling lower-division students beginning in Fall 2007.

(12) \$800,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for the university to operate the AgWeatherNet system.

(13) \$400,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for the center for sustaining agriculture and natural resources to create a biologically intensive and organic agriculture program.

(14) \$5,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for the university to publish a comprehensive reference book on Washington state local governments through the division of governmental studies and services. Copies of the publication shall be provided to the appropriate policy and fiscal committees of the legislature.

(15) \$1,000,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for allocation to a private nonprofit medical and scientific research institute to be located in Spokane for the purposes of developing and implementing new medical treatment therapies involving systems biology, genomics, and nanotechnology. The allocation shall be matched by the nonprofit institute by an equal amount of funds from nonstate sources. The university shall not retain any of these funds for administrative purposes.

(16) \$98,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to establish a biofuels consumer education and outreach program at the Washington State University extension energy program.

\*Sec. 604 was partially vetoed. See message at end of chapter.

Sec. 605. 2005 c 518 s 606 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund—State Appropriation (FY 2006) . . . . .	(\$46,137,000)
	\$46,300,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$47,069,000)
	\$47,200,000
Education Legacy Trust—State Appropriation . . . . .	\$6,461,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$110,000</u>
TOTAL APPROPRIATION . . . . .	(\$99,667,000)
	\$100,071,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,147,000 of the education legacy trust appropriation for fiscal year 2006 and \$4,314,000 of the education legacy trust appropriation for fiscal year 2007 are provided as the state subsidy for 650 new enrollments. By December 15th of each year of the 2005-07 fiscal biennium, the university shall report to the office of financial management and the legislative fiscal committees the number of new student FTEs by campus enrolled with the funding provided in this subsection.

(2) The appropriations for higher education employee compensation increases provided or referenced in this section and described in sections 949 through 980 of this act are estimated to increase the total per student funding during the 2005-2007 biennium. This increase in total per student funding is in addition to the tuition revenues that will be generated and retained by the university as a result of the tuition increases that are authorized in section 601 of this act. Given these increases in core funding, Eastern Washington University shall, by June 30, 2007, show demonstrable progress toward achieving the following six-year programmatic goals:

(a) Improve time to degree as measured by the percent of admitted students who graduate within 125% of the credits required for a degree;



- (b) Preserve access for low-income students as measured by the percentage of total degrees awarded to Pell Grant recipients;
- (c) Improve freshman retention rates;
- (d) Improve and sustain the quality of its degree programs as measured by the number of programs that receive national accreditation; and
- (e) Improve its ability to prepare students for the workforce as measured by the job placement or graduate school acceptance rates among graduates.

Specific six-year targets for the goals stated in this subsection shall be established by the university, the office of financial management, and the higher education coordinating board and shall be determined based on the per student funding level assumed in this act.

On or before (~~October~~) November 1, 2006, the university shall submit to the higher education coordinating board a report that outlines the institution's progress and ongoing efforts toward meeting the provisions of this section. The higher education coordinating board shall compile and analyze all responses and provide a summary to the governor and the appropriate fiscal and policy committees of the legislature prior to (~~November~~) December 1, 2006.

(3) \$212,000 of the general fund—state appropriation for fiscal year 2006 and (~~(\$213,000)~~) \$313,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the northeast autism center to provide community based approaches to assisting children and adults with autism spectrum disorder and to include the establishment of a preschool at Eastern Washington University to serve children identified with autism spectrum disorder.

(4) \$158,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for extraordinary natural gas cost expenses.

\***Sec. 606.** 2005 c 518 s 607 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund—State Appropriation (FY 2006) . . . . .	( <del>\$45,379,000</del> )
	<u>\$45,671,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	( <del>\$46,739,000</del> )
	<u>\$47,006,000</u>
Education Legacy Trust—State Appropriation. . . . .	\$6,461,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	<u>\$103,000</u>
TOTAL APPROPRIATION . . . . .	( <del>\$98,579,000</del> )
	<u>\$99,241,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$2,147,000 of the education legacy trust appropriation for fiscal year 2006 and \$4,314,000 of the education legacy trust appropriation for fiscal year 2007 are provided as the state subsidy for 650 new enrollments. By December 15th of each year of the 2005-07 fiscal biennium, the university shall report to the office of financial management and the legislative fiscal committees the number of new student FTEs by campus enrolled with the funding provided in this subsection.

(2) The appropriations for higher education employee compensation increases provided or referenced in this section and described in sections 949

through 980 of this act are estimated to increase the total per student funding during the 2005-2007 biennium. This increase in total per student funding is in addition to the tuition revenues that will be generated and retained by the university as a result of the tuition increases that are authorized in section 601 of this act. Given these increases in core funding, Central Washington University shall, by June 30, 2007, show demonstrable progress toward achieving the following six-year programmatic goals:

- (a) Improve time to degree as measured by the percent of admitted students who graduate within 125% of the credits required for a degree;
- (b) Preserve access for low-income students as measured by the percentage of total degrees awarded to Pell Grant recipients;
- (c) Improve freshman retention rates;
- (d) Improve and sustain the quality of its degree programs as measured by the number of programs that receive national accreditation; and
- (e) Improve its ability to prepare students for the workforce as measured by the job placement or graduate school acceptance rates among graduates.

Specific six-year targets for the goals stated in this subsection shall be established by the university, the office of financial management, and the higher education coordinating board and shall be determined based on the per student funding level assumed in this act.

On or before (~~October~~) November 1, 2006, the university shall submit to the higher education coordinating board a report that outlines the institution's progress and ongoing efforts toward meeting the provisions of this section. The higher education coordinating board shall compile and analyze all responses and provide a summary to the governor and the appropriate fiscal and policy committees of the legislature prior to (~~November~~) December 1, 2006.

(3) For the 2006-07 and 2007-08 academic years, the legislature hereby increases the limit on total gross authorized operating fees revenue waived, exempted, or reduced by Central Washington University pursuant to RCW 28B.15.910 to eleven percent.

(4) \$206,000 of the general fund--state appropriation for fiscal year 2006 is provided solely for extraordinary natural gas cost expenses.

(5) \$85,000 of the general fund--state appropriation for fiscal year 2006 and \$245,000 of the general fund--state appropriation for fiscal year 2007 are provided solely to fund additional tuition waiver authority granted to the university in the 2005-07 biennial budget.

\*Sec. 606 was partially vetoed. See message at end of chapter.

\*Sec. 607. 2005 c 518 s 608 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund—State Appropriation (FY 2006) . . . . .	(\$25,586,000)
	<u>\$25,661,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$26,174,000)
	<u>\$26,980,000</u>
Education Legacy Trust—State Appropriation . . . . .	\$2,116,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$75,000</u>
TOTAL APPROPRIATION . . . . .	(\$53,876,000)
	<u>\$54,832,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$705,000 of the education legacy trust appropriation for fiscal year 2006 and \$1,411,000 of the education legacy trust appropriation for fiscal year 2007 are provided as the state subsidy for 210 new enrollments. By December 15th of each year of the 2005-07 fiscal biennium, the college shall report to the office of financial management and the legislative fiscal committees the number of new student FTEs by campus enrolled with the funding provided in this subsection.

(2) The appropriations for higher education employee compensation increases provided or referenced in this section and described in sections 949 through 980 of this act are estimated to increase the total per student funding during the 2005-2007 biennium. This increase in total per student funding is in addition to the tuition revenues that will be generated and retained by the college as a result of the tuition increases that are authorized in section 601 of this act. Given these increases in core funding, The Evergreen State College shall, by June 30, 2007, show demonstrable progress toward achieving the following six-year programmatic goals:

(a) Improve time to degree as measured by the percent of admitted students who graduate within 125% of the credits required for a degree;

(b) Preserve access for low-income students as measured by the percentage of total degrees awarded to Pell Grant recipients;

(c) Improve freshman retention rates;

(d) Improve and sustain the quality of its degree programs as measured by the number of programs that receive national accreditation;

(e) Improve its ability to prepare students for the workforce as measured by the job placement or graduate school acceptance rates among graduates.

Specific six-year targets for the goals stated in this subsection shall be established by the university, the office of financial management, and the higher education coordinating board and shall be determined based on the per student funding level assumed in this act.

On or before (~~October~~) November 1, 2006, the university shall submit to the higher education coordinating board a report that outlines the institution's progress and ongoing efforts toward meeting the provisions of this section. The higher education coordinating board shall compile and analyze all responses and provide a summary to the governor and the appropriate fiscal and policy committees of the legislature prior to (~~November~~) December 1, 2006.

(3) \$40,000 of the general fund—state appropriation for fiscal year 2006 and \$10,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the Washington state institute for public policy to conduct an analysis of the availability, services, and effectiveness of programs in community and technical colleges that serve the educational needs of recent immigrant students who are not proficient in English and who are or have been enrolled in high school but have not met graduation requirements. The analysis shall include, but not be limited to, the type of programs provided, the geographic availability of programs, the identification of best practices, how the programs are funded, and the effectiveness of the programs. The analysis shall also include recommendations for improving the programs to better meet the needs of recent immigrant students and for expanding the availability of programs statewide. A report shall be submitted to the fiscal and education

committees of the legislature, the superintendent of public instruction, and the state board for community and technical colleges by December 1, 2006.

(4) \$170,000 of the general fund—state appropriation for fiscal year 2006 and \$140,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for sections 217 and 605 of Senate Bill No. 5763 (mental disorders treatment). If neither section 217 nor section 605 is enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(5) \$69,000 of the general fund--state appropriation for fiscal year 2006 is provided solely for extraordinary natural gas cost expenses.

(6) \$61,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for the Washington state institute for public policy to begin conducting the study of continued foster care support services outlined in Second Substitute House Bill No. 2002 (foster care support services). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

**(7) \$80,000 of the general fund--state appropriation for fiscal year 2007 is provided solely to meet the demand for collective bargaining and bargaining unit training. All of the funding provided in this subsection shall be allocated to the labor education and research center to support such training and shall not be used for overhead expenses.**

(8) \$40,000 of the general fund--state appropriation for fiscal year 2007 is provided solely for the Washington state institute for public policy to update the list of cost-beneficial juvenile justice programs that the institute has previously published and to update the cost parameters used to estimate the benefits of such programs as outlined in Fourth Substitute House Bill No. 1483 (investing in youth program). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(9) \$30,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Washington state institute for public policy to begin a study of the pilot program created in section 204(1)(w) of this act. Subject to the approval of the institute's board, the study shall measure improvements in the delivery of mental health services to children and shall include, at a minimum, an assessment of program outcomes and cost-effectiveness, including consideration of hospital utilization, residential or out-of-home placements, utilization of child welfare services, school attendance, and involvement in the juvenile justice system. The institute shall provide the appropriate committees of the legislature with an initial study plan and activity report by June 30, 2007.

(10) \$20,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for The Evergreen State College to record and document oral histories of tribal elders of the tribes in the area surrounding Hood canal and other long-term residents of the Hood canal area who have similar knowledge of the history of the conditions along Hood canal, including but not limited to reports of fish kills, changes in marine species behavior, fishing and harvesting histories, and other conditions related to the environmental health of Hood canal. Any documents, information, photographs, or other materials identified by a tribe as relating to tribal archaeological sites according to this subsection are exempt from public disclosure pursuant to RCW 42.17.310(1)(k). The Evergreen State College may retain no more than five percent of the funding in this section for costs associated with administering and conducting the program.

(11) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Washington state institute for public policy to perform a quantitative analysis of the effectiveness of the remedial programs funded as part of the promoting academic success program. The analysis should focus on determining: (a) The effectiveness of the remedial programs in helping students pass the WASL; (b) the relative effectiveness of different remedial strategies offered; and (c) the relative effectiveness of the remediation disaggregated by student characteristics, including, at a minimum, economic status, limited English proficiency, and ethnicity. The office of the superintendent of public instruction shall provide all data necessary to conduct such analyses, and shall help coordinate data collection directly from districts administering the remedial programs as necessary. An interim update shall be delivered to the education committees of the legislature on December 15, 2006, and a final report shall be delivered December 15, 2007.

(12) \$55,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Washington state institute for public policy to hire a meeting facilitator to conduct a series of meetings with a broad group of stakeholders to examine the strengths and weaknesses of educational services available to deaf and hard of hearing children throughout the state. By June 30, 2007, the institute must develop recommendations that would establish an integrated system of instructional and support programs that would provide deaf and hard of hearing children with the knowledge and skills necessary for them to be successful in their adult lives and the "hearing" world of work.

(13) \$48,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Washington state institute for public policy to conduct the studies required by sections 304 and 305 of Engrossed Second Substitute Senate Bill No. 6239 (controlled substances). The institute shall report its findings to the governor and the appropriate standing committees of the legislature by January 1, 2007. If Engrossed Substitute Senate Bill No. 6239 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(14) \$275,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Washington state institute for public policy to conduct the study required by Substitute Senate Bill No. 6618 (high school assessments). Specifically, the study will consist of three components: (a) An analysis of WASL data to identify the characteristics of the students who have failed to meet standard; (b) a review and identification of additional alternative assessment options that will augment the current assessment system; and (c) a review and identification of additional alternative methods, procedures, or combinations of performance measures to assess whether students have met the state learning standards. The institute must provide an interim report by December 1, 2006, and a final report by December 2007.

(15) \$125,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the Washington state institute for public policy to begin the development of a repository of research and evaluations of the cost-benefits of various K-12 educational programs and services. The goal for the effort is to provide policymakers with additional information to aid in decision making. Further, the legislative intent for this effort is not to duplicate current studies, research, and evaluations but rather to augment those activities on an on-going basis. Therefore, to the extent appropriate, the institute shall utilize and

incorporate information from the Washington learns study, the joint legislative audit and review committee, and other entities currently reviewing certain aspects of K-12 finance and programs. The institute shall provide the following: (a) By September 1, 2006, a detailed implementation plan for this project; (b) by March 1, 2007, a report with preliminary findings; and (c) annual updates each year thereafter.

\*Sec. 607 was partially vetoed. See message at end of chapter.

Sec. 608. 2005 c 518 s 609 (uncodified) is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

General Fund—State Appropriation (FY 2006) . . . . .	(\$58,896,000)
	\$58,993,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$60,514,000)
	\$61,435,000
Education Legacy Trust—State Appropriation . . . . .	\$3,475,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$161,000</u>
TOTAL APPROPRIATION . . . . .	(\$122,885,000)
	\$124,064,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$1,158,000 of the education legacy trust appropriation for fiscal year 2006 and \$2,317,000 of the education legacy trust appropriation for fiscal year 2007 are provided as the state subsidy for 340 new enrollments. By December 15th of each year of the 2005-07 fiscal biennium, the university shall report to the office of financial management and the legislative fiscal committees the number of new student FTEs by campus enrolled with the funding provided in this subsection.

(2) The appropriations for higher education employee compensation increases provided or referenced in this section and described in sections 949 through 980 of this act are estimated to increase the total per student funding during the 2005-2007 biennium. This increase in total per student funding is in addition to the tuition revenues that will be generated and retained by the university as a result of the tuition increases that are authorized in section 601 of this act. Given these increases in core funding, Western Washington University shall, by June 30, 2007, show demonstrable progress toward achieving the following six-year programmatic goals:

- (a) Improve time to degree as measured by the percent of admitted students who graduate within 125% of the credits required for a degree;
- (b) Preserve access for low-income students as measured by the percentage of total degrees awarded to Pell Grant recipients;
- (c) Improve freshman retention rates;
- (d) Improve and sustain the quality of its degree programs as measured by the number of programs that receive national accreditation; and
- (e) Improve its ability to prepare students for the workforce as measured by the job placement or graduate school acceptance rates among graduates.

Specific six-year targets for the goals stated in this subsection shall be established by the university, the office of financial management, and the higher

education coordinating board and shall be determined based on the per student funding level assumed in this act.

On or before (~~October~~) November 1, 2006, the university shall submit to the higher education coordinating board a report that outlines the institution's progress and ongoing efforts toward meeting the provisions of this section. The higher education coordinating board shall compile and analyze all responses and provide a summary to the governor and the appropriate fiscal and policy committees of the legislature prior to (~~November~~) December 1, 2006.

(3) Access to baccalaureate and graduate degree programs continues to be limited for residents of North Snohomish, Island, and Skagit counties. The higher education consortium created to serve the region has not been able to successfully address the region's access needs. The university center model of service delivery, centered on a community college campus with a single point of accountability, has proven more effective in developing degree programs and attracting students.

Therefore, the management and leadership responsibility for consortium operations are assigned to Everett community college. Everett community college shall collaborate with community and business leaders, other local community colleges, the public four-year institutions of higher education, and the higher education coordinating board to develop an educational plan for the North Snohomish, Island, and Skagit county region based on the university center model.

(4) \$98,000 of the general fund--state appropriation for fiscal year 2006 is provided solely for extraordinary natural gas cost expenses.

(5) \$400,000 of the general fund--state appropriation for fiscal year 2007 is provided to help planning efforts to coordinate expansion of the university's campus to the Bellingham waterfront.

(6) \$250,000 of the general fund--state appropriation for fiscal year 2007 is provided solely to establish a planning and emergency management program at Western Washington University.

(7) \$250,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to support the border policy research institute at Western Washington University.

**Sec. 609.** 2005 c 518 s 610 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION**

General Fund—State Appropriation (FY 2006) . . . . .	( <del>\$2,665,000</del> )
	<u>\$5,666,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	( <del>\$2,684,000</del> )
	<u>\$6,549,000</u>
General Fund—Federal Appropriation . . . . .	( <del>\$4,289,000</del> )
	<u>\$4,291,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation . . . . .</u>	<u>\$29,000</u>
TOTAL APPROPRIATION . . . . .	( <del>\$9,638,000</del> )
	<u>\$16,535,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$300,000 of the general fund—state appropriation for fiscal year 2006 and \$300,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to develop college readiness standards for English and science.

(2) \$2,914,000 of the general fund—state appropriation for fiscal year 2006 and \$2,877,000 of the general fund—state appropriation for fiscal year 2007 are provided for financial aid administration, in addition to the four percent cost allowance provision for state work study under section 610(7) of this act. These amounts are provided to administer all the financial aid and grant programs assigned to the board by the legislature and administered by the agency. To the extent the executive director finds the agency will not require the full sum provided in this subsection, a portion may be transferred to supplement financial grants-in-aid to eligible clients contained in section 610 of this act after notifying the board and the office of financial management of the transfer.

(3) \$900,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to contract for 80 full-time equivalent students in high-demand fields in fiscal year 2007. High-demand fields are programs where enrollment access is limited and employers are experiencing difficulty finding qualified graduates to fill job openings. Of the amounts provided, up to \$20,000 may be used for management of the competitive process for awarding high-demand student FTEs during the 2005-07 biennium.

(a) The board will manage a competitive process for awarding high-demand student FTEs. Regional universities, as defined by RCW 28B.10.016, and The Evergreen State College are eligible to apply for funding and may submit proposals.

(b) The board will establish a proposal review committee that will include, but not be limited to, representatives from the board, the office of financial management, and economic development and labor market analysts. The board will develop the request for proposals, including the criteria for awarding grants, in consultation with the proposal review committee.

(c) Institutions that receive grants shall provide the board and the forecast division of the office of financial management with data specified by the board or the office of financial management that shows the impact of this subsection, particularly the degree of improved access to high-demand programs for students and successful job placements for graduates. The board will report on the implementation of this subsection by November 1st of each fiscal year to the office of financial management and the fiscal and higher education committees of the legislature.

Sec. 610. 2005 c 518 s 611 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—  
FINANCIAL AID AND GRANT PROGRAMS**

General Fund—State Appropriation (FY 2006) . . . . .	(\$159,363,000)
	\$156,449,000
General Fund—State Appropriation (FY 2007) . . . . .	(\$164,634,000)
	\$162,843,000
General Fund—Federal Appropriation . . . . .	(\$13,073,000)
	\$13,075,000
Education Legacy Trust—State Appropriation . . . . .	\$62,910,000
<u>Pension Funding Stabilization Account—State</u>	



<u>Appropriation</u> .....	<u>\$1,000</u>
TOTAL APPROPRIATION .....	<del>(\$399,980,000)</del>
	<u>\$395,278,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$299,000 of the general fund—state appropriation for fiscal year 2006 and \$308,000 of the general fund—state appropriation for fiscal year 2007 are ~~((provided solely))~~ for the western interstate commission for higher education.

(2) \$75,000 of the general fund—state appropriation for fiscal year 2006 and \$75,000 of the general fund—state appropriation for fiscal year 2007 are ~~((provided solely))~~ for higher education student child care matching grants under chapter 28B.135 RCW.

(3) \$25,000 of the general fund—state appropriation for fiscal year 2006 and \$25,000 of the general fund—state appropriation for fiscal year 2007 are ~~((provided solely))~~ for the benefit of students who participate in college assistance migrant programs (CAMP) operating in Washington state. To ensure timely state aid, the board may establish a date after which no additional grants would be available for the 2005-06 and 2006-07 academic years. The board shall disperse grants in equal amounts to eligible post-secondary institutions so that state money in all cases supplements federal CAMP awards.

(4) \$124,901,000 of the general fund—state appropriation for fiscal year 2006, \$134,506,000 of the general fund—state appropriation for fiscal year 2007, \$28,400,000 of the education legacy trust appropriation for fiscal year 2006, and \$31,654,000 of the education legacy trust appropriation for fiscal year 2007 are ~~((provided solely))~~ for the state need grant program. After April 1st of each fiscal year, ~~((up to one percent of))~~ uncommitted funds from the annual appropriation for the state need grant program may be transferred to the state work study ~~((program))~~ or educational opportunity grant programs and up to one percent may be transferred to the state education trust account as authorized in RCW 28B.92.140.

~~((5))~~ \$250,000 of the general fund—state appropriation for fiscal year 2006 and \$250,000 of the general fund—state appropriation for fiscal year 2007 are ~~provided solely~~) Of the amounts provided in this subsection, up to \$500,000 is to implement House Bill No. 1345 (part-time student financial aid). ~~((If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.))~~ The board may not expend more than the amount provided in this subsection to implement the bill.

~~((6))~~ (5) \$75,000 of the general fund—state appropriation for fiscal year 2006 and \$75,000 of the general fund—state appropriation for fiscal year 2007 are ~~((provided solely))~~ for the implementation of Second Substitute House Bill No. 1050 (foster care endowed scholarship program). The purpose of the program is to help students who are or were in foster care attend an institution of higher education in the state of Washington. ~~((If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.))~~

~~((7))~~ (6) \$250,000 of the general fund—state appropriation for fiscal year 2006 and ~~(\$250,000)~~ \$750,000 of the general fund—state appropriation for the fiscal year 2007 are ~~((provided solely))~~ to support the future teachers' conditional scholarship and loan repayment program. Of this amount, \$500,000

of the general fund—state appropriation for fiscal year 2007 is provided solely to expand the program by up to 70 additional slots for prospective teachers in special education, bilingual education, secondary mathematics, and secondary science.

~~((8))~~ (7) \$17,048,000 of the general fund—state appropriation for fiscal year 2006, \$17,048,000 of the general fund—state appropriation for fiscal year 2007, \$863,000 of the education legacy trust appropriation for fiscal year 2006, and \$1,993,000 of the education legacy trust appropriation for fiscal year 2007 are ~~((provided solely))~~ for the state work study program. After April 1st of each fiscal year, ~~((up to one percent of))~~ uncommitted funds from the annual appropriation for the state work study program may be transferred to the state need grant or educational opportunity grant programs. In addition to the administrative allowance in ~~((subsection (11) of this))~~ section 609(2) of this act, four percent of the general fund—state amount and the education legacy trust amounts in this subsection may be transferred to and expended for state work study program administration.

~~((9))~~ (8) \$2,867,000 of the general fund—state appropriation for fiscal year 2006 and \$2,867,000 of the general fund—state appropriation for fiscal year 2007 are ~~((provided solely))~~ for educational opportunity grants pursuant to chapter 233, Laws of 2003 (ESB 5676). The board may deposit sufficient funds from its appropriation into the state education trust fund as established in RCW ~~((28B.10.821))~~ 28B.92.140 to provide a one-year renewal of the grant for each new recipient of the educational opportunity grant award. After April 1st of each fiscal year, uncommitted funds from the annual appropriation for the educational opportunity grant program may be transferred to the state work study or state need grant programs.

~~((10))~~ (9) \$2,384,000 of the general fund—state appropriation for fiscal year 2006 and \$2,361,000 of the general fund—state appropriation for fiscal year 2007 are ~~((provided solely))~~ to implement the Washington scholars program. Any Washington scholars program moneys not awarded by April 1st of each year may be transferred by the board to the Washington award for vocational excellence. Amounts provided in this subsection are sufficient for the higher education coordinating board to select three Washington scholars in fiscal year 2006 and two Washington scholars in fiscal year 2007 from each legislative district under the provisions of RCW 28A.600.100 through 28A.600.150.

~~((11))~~ (10) \$794,000 of the general fund—state appropriation for fiscal year 2006 and \$847,000 of the general fund—state appropriation for fiscal year 2007 are ~~((provided solely))~~ to implement Washington award for vocational excellence program. Any Washington award for vocational program moneys not awarded by April 1st of each year may be transferred by the board to the Washington scholars program.

~~((12))~~ (11) \$246,000 of the general fund—state appropriation for fiscal year 2006 and \$246,000 of the general fund—state appropriation for fiscal year 2007 are ~~((provided solely))~~ for community scholarship matching grants of \$2,000 each and up to a total of \$46,000 per year in grants for nonprofit community organizations with preference given to organizations affiliated with scholarship America to administer the scholarship matching grants. To be eligible for the matching grant, a nonprofit community organization organized under section 501(c)(3) of the internal revenue code must demonstrate that it has

raised \$2,000 in new moneys for college scholarships after the effective date of this section. An organization may receive more than one \$2,000 matching grant and preference shall be given to organizations affiliated with scholarship America.

~~((13))~~ (12) Subject to state need grant service requirements pursuant to chapter 28B.119 RCW, ~~(((\$4,265,000))~~ \$4,325,000 of the general fund—state appropriation for fiscal year 2006 is ~~((provided solely))~~ for the Washington promise scholarship program. The Washington promise scholarship program is terminated following fiscal year 2006. No Washington promise scholarship awards may be offered to students beyond the graduating high school class of 2004. Unexpended funds remaining after June 30, 2006, may be transferred to the state education trust account authorized in RCW 28B.92.140.

~~((14))~~ \$2,963,000 of the general fund—state appropriation for fiscal year 2006 and \$2,958,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for financial aid administration, in addition to the four percent cost allowance provision for state work study under subsection (5) of this section. These funds are provided to administer all the financial aid and grant programs assigned to the board by the legislature and administered by the agency. To the extent the executive director finds the agency will not require the full sum provided in this subsection, a portion may be transferred to supplement financial grants in aid to eligible clients after notifying the board and the office of financial management of the intended transfer.)

(13) \$75,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for one-time costs associated with stabilizing the GEAR-UP scholarship program.

(14) \$3,100,000 of the general fund—state appropriation for fiscal year 2006 and \$3,100,000 of the general fund—state appropriation for fiscal year 2007 are for the health professions loan repayment and scholarship program.

(15) \$60,000 of the general fund—state appropriation for fiscal year 2006 and \$60,000 of the general fund—state appropriation for fiscal year 2007 are for the Washington center scholarship program.

(16) \$500,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the board to contract with the Washington leadership 1000 scholarship fund. The funds shall be used to support, develop, and implement the leadership 1000 scholarship program which matches private benefactors with selected economically disadvantaged students who would otherwise be unable to attend college after depleting all other sources of scholarship and financial aid.

(17) By December 1st of each fiscal year, the board shall submit a report to the legislature detailing the outcomes from the previous year and a progress report on the current year for each of the student aid programs listed in this section: (a) The number of students served; (b) the award amount provided to students by sector; (c) the total amount spent; and (d) an explanation for any variation between the amount listed in the subsections and the amount expended.

\*Sec. 611. 2005 c 518 s 612 (uncodified) is amended to read as follows:

**FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,225,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(((\$1,231,000))</del>

	\$1,480,000
General Fund—Federal Appropriation . . . . .	(((\$53,890,000))
	\$53,897,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$7,000
TOTAL APPROPRIATION . . . . .	(((\$56,346,000))
	\$56,609,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$52,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement House Bill No. 2597 (private vocational schools). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(2) \$75,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for the purpose of a study in coordination with the state board for community and technical colleges. The study shall include:

(a) A review of and recommendations for consolidating and simplifying the delivery of state-funded and federally funded work force education programs and work force education aid offered to students in this state, with a goal of achieving easier access to postsecondary education for students;

(b) A description of barriers that exist to combining work force education programs and work force education aid, such as state or federal statutes, rules, or regulations, and the relief that may be available through federal waivers;

(c) An estimate of the funding gap between available work force education aid and the financial needs of students living in this state;

(d) A description of barriers to access and completion of work force education programs in this state; and

(e) Recommendations for increasing participation and completion rates for work force education programs.

The work force training and education coordinating board must submit its report on the study to the legislature by November 15, 2006, and must coordinate its study and research with the Washington Learns study of postsecondary education.

(3) \$67,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Engrossed Substitute House Bill No. 2565 (worker training b & o tax). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(4) \$50,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Second Substitute Senate Bill No. 5717 (K-12 skill centers). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

\*Sec. 611 was partially vetoed. See message at end of chapter.

Sec. 612. 2005 c 518 s 613 (uncodified) is amended to read as follows:

**FOR THE SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE**

General Fund—State Appropriation (FY 2006) . . . . .(((\$1,446,000))

\$1,483,000

General Fund—State Appropriation (FY 2007) . . . . .(((\$1,476,000))

	<u>\$1,514,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$8,000
TOTAL APPROPRIATION . . . . .	<del>(\$2,922,000)</del>
	<u>\$3,005,000</u>

The appropriations in this section are subject to the following conditions and limitations:

The legislature finds that economic development, especially in emerging technologies, is critical to Spokane and Eastern Washington. The principal goal of the state's investment in the Spokane intercollegiate research and technology institute (SIRTI) is to bridge the gap between academic discovery and economic development, thereby leveraging the state's investment in research. However, it is essential to find appropriate ways to mark the success of these efforts. By September 15, 2005, SIRTI shall develop a plan for review by the house of representatives higher education committee and the senate labor, commerce, research and development committee, describing the agency's strategy and budget for commercial application of academic research. The plan shall include actions to be taken to select, develop, commercialize, and graduate clients. The plan shall also detail how to measure significant impacts to the overall economic climate of the Spokane region, including job creation and wages, that are attributable to SIRTI.

**Sec. 613.** 2005 c 518 s 614 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE ARTS COMMISSION**

General Fund—State Appropriation (FY 2006) . . . . .	\$2,322,000
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$2,349,000)</del>
	<u>\$2,356,000</u>
General Fund—Federal Appropriation . . . . .	<del>(\$1,300,000)</del>
	<u>\$1,350,000</u>
General Fund—Private/Local Appropriation (FY 2007) . . . . .	<del>(\$1,000)</del>
	<u>\$151,000</u>

<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$6,000
TOTAL APPROPRIATION . . . . .	<del>(\$5,972,000)</del>
	<u>\$6,185,000</u>

**Sec. 614.** 2005 c 518 s 615 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

General Fund—State Appropriation (FY 2006) . . . . .	<del>(\$3,408,000)</del>
	<u>\$3,407,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	<del>(\$2,757,000)</del>
	<u>\$3,254,000</u>

<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$13,000
TOTAL APPROPRIATION . . . . .	<del>(\$6,165,000)</del>
	<u>\$6,674,000</u>

The appropriations in this section are subject to the following conditions and limitations:

(1) \$102,000 of the general fund—state appropriation for fiscal year 2006 and \$95,000 of the general fund—state appropriation for fiscal year 2007 are provided solely to implement Senate Bill No. 5707 (women's history consortium). If the bill is not enacted by June 30, 2005, the amounts provided in this subsection shall lapse.

(2) \$262,000 of the general fund—state appropriation for fiscal year 2006 is provided solely to coordinate and fund programs related to the Lewis and Clark bicentennial commemoration.

(3) \$155,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for reimbursement of costs incurred by the Pacific county sheriff's office resulting from Lewis and Clark bicentennial commemoration events.

(4) \$100,000 of the general fund—state appropriation for fiscal year 2006 is provided solely for reimbursement of costs incurred by local law enforcement resulting from Lewis and Clark bicentennial commemoration events scheduled in the cities of Clarkston, Dayton, Kennewick, Stevenson, Toppenish, and Vancouver.

(5) \$491,000 of the general fund—state appropriation for fiscal year 2007 is provided solely for increased costs associated with the discovery of Native American remains at the station camp unit of the Lewis and Clark national historic park. However, the funds provided in this subsection may not be used for financial settlement of any claims for Native American cultural damages or equitable relief.

Sec. 615. 2005 c 518 s 616 (uncodified) is amended to read as follows:

<b>FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY</b>	
General Fund—State Appropriation (FY 2006) . . . . .	(\$1,636,000))
	<u>\$1,633,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$1,630,000))
	<u>\$1,631,000</u>
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$8,000
TOTAL APPROPRIATION . . . . .	(\$3,266,000))
	<u>\$3,272,000</u>

Sec. 616. 2005 c 518 s 617 (uncodified) is amended to read as follows:

<b>FOR THE STATE SCHOOL FOR THE BLIND</b>	
General Fund—State Appropriation (FY 2006) . . . . .	(\$5,133,000))
	<u>\$5,149,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$5,251,000))
	<u>\$5,285,000</u>
General Fund—Private/Local Appropriation . . . . .	\$1,335,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$38,000
TOTAL APPROPRIATION . . . . .	(\$11,719,000))
	<u>\$11,807,000</u>

Sec. 617. 2005 c 518 s 618 (uncodified) is amended to read as follows:

<b>FOR THE STATE SCHOOL FOR THE DEAF</b>	
General Fund—State Appropriation (FY 2006) . . . . .	(\$8,419,000))

	<u>\$8,439,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$8,613,000</del> ))
	<u>\$8,709,000</u>
General Fund—Private/Local Appropriation . . . . .	\$232,000
<u>Pension Funding Stabilization Account—State</u>	
<u>Appropriation</u> . . . . .	\$50,000
TOTAL APPROPRIATION . . . . .	(( <del>\$17,264,000</del> ))
	<u>\$17,430,000</u>

**PART VII  
SPECIAL APPROPRIATIONS**

**Sec. 701.** 2005 c 518 s 701 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT SUBJECT TO THE DEBT LIMIT**

General Fund—State Appropriation (FY 2006) . . . . .	(( <del>\$694,444,000</del> ))
	<u>\$640,544,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(( <del>\$668,119,000</del> ))
	<u>\$683,019,000</u>
State Building Construction Account—State	
Appropriation . . . . .	(( <del>\$3,924,000</del> ))
	<u>\$5,924,000</u>
State Taxable Building Construction	
Account—State Appropriation . . . . .	(( <del>\$139,000</del> ))
	<u>\$539,000</u>
Gardner-Evans Higher Education Construction	
Account—State Appropriation . . . . .	(( <del>\$1,215,000</del> ))
	<u>\$1,395,000</u>
<del>((Debt-limit General Fund Bond Retirement</del>	
<del>    Account—State Appropriation . . . . .</del>	<del>\$4,113,000))</del>
Debt-Limit Reimbursable Bond Retirement	
Account—State Appropriation . . . . .	\$2,583,000
TOTAL APPROPRIATION . . . . .	(( <del>\$1,374,537,000</del> ))
	<u>\$1,334,004,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for deposit into the debt-limit general fund bond retirement account. The appropriation for fiscal year 2006 shall be deposited in the debt-limit general fund bond retirement account by June 30, 2006.

**Sec. 702.** 2005 c 518 s 702 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY ENTERPRISE ACTIVITIES**

State Convention and Trade Center	
Account—State Appropriation . . . . .	\$29,411,000
Accident Account—State Appropriation . . . . .	(( <del>\$5,111,000</del> ))

	<u>\$5,112,000</u>
Medical Aid Account—State Appropriation . . . . .	(((\$5,111,000))
	<u>\$5,112,000</u>
TOTAL APPROPRIATION . . . . .	(((\$39,633,000))
	<u>\$39,635,000</u>

Sec. 703. 2005 c 518 s 703 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS PRESCRIBED BY STATUTE**

General Fund—State Appropriation (FY 2006) . . . . .	\$24,588,000
General Fund—State Appropriation (FY 2007) . . . . .	\$26,743,000
Nondebt-Limit Reimbursable Bond Retirement	
Account—State Appropriation . . . . .	(((\$131,844,000))
	<u>\$130,909,000</u>
TOTAL APPROPRIATION . . . . .	(((\$183,175,000))
	<u>\$182,240,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the nondebt-limit general fund bond retirement account.

Sec. 704. 2005 c 518 s 704 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES**

General Fund—State Appropriation (FY 2006) . . . . .	\$1,357,000
General Fund—State Appropriation (FY 2007) . . . . .	\$1,357,000
State Building Construction Account—State Appropriation . . . . .	\$1,080,000
State Taxable Building Construction	
Account—State Appropriation . . . . .	(((\$13,000))
	<u>\$78,000</u>
Gardner-Evans Higher Education Construction	
Account—State Appropriation . . . . .	\$452,000
TOTAL APPROPRIATION . . . . .	(((\$4,259,000))
	<u>\$4,324,000</u>

Sec. 705. 2005 c 518 s 705 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—FIRE CONTINGENCY POOL**

Disaster Response Account—State Appropriation . . . . .	(((\$4,000,000))
	<u>\$8,000,000</u>

The sum of (((\$4,000,000)) \$8,000,000 is appropriated from the disaster response account for the purpose of making allocations to the Washington state patrol for fire mobilizations costs or to the department of natural resources for fire suppression costs.

NEW SECTION. Sec. 706. A new section is added to 2005 c 518 (uncodified) to read as follows:



**FOR THE OFFICE OF FINANCIAL MANAGEMENT—FIRE CONTINGENCY**

General Fund—State Appropriation (FY 2006) . . . . . \$1,600,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for deposit into the disaster response account for the purposes specified in section 705 of this act.

NEW SECTION. Sec. 707. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR SUNDRY CLAIMS.** The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of financial management, except as otherwise provided, as follows:

(1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110:

- (a) Kirk F. Schultz, claim number SCJ 2006-01 . . . . . \$12,312
- (b) Scott A. King, claim number SCJ 2006-02 . . . . . \$9,922
- (c) Mark D. Huckaba, claim number SCJ 2006-03 . . . . . \$10,000
- (d) James D. Brittain, claim number SCJ 2006-02 . . . . . \$20,000

(2) Payment from the state wildlife account for damage to crops by wildlife pursuant to RCW 77.36.050:

- (a) For deposit into the self-insurance liability account for reimbursement of payment made to Circle S Landscape, claim number SCG 2004-05 . . . . \$21,926
- (b) Venture Farms, claim number SCG 2005-03 . . . . . \$57,448
- (c) Patrick O'Hagen, claim number SCG 2006-02 . . . . . \$1,673
- (d) Patrick O'Hagen, claim number SCG 2006-03 . . . . . \$2,389
- (e) Swampapple Enterprises, Inc., claim number SCG 2006-04 . . . . . \$3,574
- (f) Wilbur H. Mundy, claim number SCG 2006-05 . . . . . \$10,307
- (g) Sam Kayser, claim number SCG 2006-08 . . . . . \$1,108
- (h) Richard Cordell, claim number SCG 2006-09 . . . . . \$4,076

(3) Payment for reinterment of human remains from historic graves pursuant to RCW 68.60.050: Darrin Erdahl, claim number SCO 2006-01 . . . . \$3,000

\***Sec. 708.** 2005 c 518 s 713 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—CONTRIBUTIONS TO RETIREMENT SYSTEMS.**

The appropriations in this section are subject to the following conditions and limitations: The appropriations for the law enforcement officers' and firefighters' retirement system shall be made on a monthly basis beginning July 1, 2005, consistent with chapter 41.45 RCW, and the appropriations for the judges and judicial retirement systems shall be made on a quarterly basis consistent with chapters 2.10 and 2.12 RCW.

(1) There is appropriated for state contributions to the law enforcement officers' and fire fighters' retirement system:

General Fund—State Appropriation (FY 2006) . . . . . \$32,450,000  
General Fund—State Appropriation (FY 2007) . . . . . ~~(\$38,550,000)~~

\$38,750,000

(a) \$100,000 of the general fund—state appropriations for fiscal year 2006 and \$200,000 of the general fund—state appropriations for fiscal year 2007 are provided solely to implement Substitute House Bill No. 1936 (emergency medical technicians). If the bill is not enacted by June 30, 2005, the amounts provided shall lapse.

(b) \$950,000 of the general fund—state appropriation for fiscal year 2006 and \$950,000 of the general fund—state appropriation for fiscal year 2007 are provided solely for the state contributions required under Substitute Senate Bill No. 5615 (law enforcement officers' and fire fighters' retirement system plan 2 disability benefit). If the bill is not enacted by June 30, 2005, the amounts provided shall lapse.

(c) \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement House Bill No. 2932 (catastrophic disability). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(d) \$100,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to implement Substitute House Bill No. 2934 (survivor health benefits). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(2) There is appropriated for contributions to the judicial retirement system:	
General Fund—State Appropriation (FY 2006) . . . . .	(\$6,000,000)
	<u>\$6,601,000</u>
General Fund—State Appropriation (FY 2007) . . . . .	(\$6,000,000)
	<u>\$9,539,000</u>

(3) There is appropriated for contributions to the judges retirement system:	
General Fund—State Appropriation (FY 2006) . . . . .	\$300,000
General Fund—State Appropriation (FY 2007) . . . . .	\$300,000
TOTAL APPROPRIATION . . . . .	(\$83,600,000)
	<u>\$87,940,000</u>

\*Sec. 708 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 709. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE GOVERNOR—EMERGENCY COMMUNICATIONS INTEROPERABILITY**

General Fund—State Appropriation (FY 2007) . . . . . \$500,000

The appropriation in this section is subject to the following conditions and limitations: Funds are provided for acquisition and deployment of interoperable telecommunications devices to local jurisdictions. One program manager position is provided to assist local and state public safety providers improve their interoperability readiness and enhance levels of cooperation and coordination. The governor shall allocate these funds as necessary with consultive assistance from the state interoperability executive committee. The military department shall transfer ownership of the buildings and sufficient land currently used by the Camas school district to the Camas school district. The transfer shall not require any compensation.

Sec. 710. 2005 c 518 s 716 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR—LIFE SCIENCES DISCOVERY FUND AUTHORITY**

General Fund—State Appropriation (FY 2006) . . . . .	\$150,000
<u>General Fund—State Appropriation (FY 2007) . . . . .</u>	<u>\$992,000</u>
<u>TOTAL APPROPRIATION . . . . .</u>	<u>\$1,142,000</u>

The ~~((appropriation))~~ appropriations in this section ~~((is))~~ are subject to the following conditions and limitations: The ~~((appropriation))~~ appropriations in this section ~~((is))~~ are provided solely for a grant to the life sciences discovery fund authority to be used in accordance with ~~((Engrossed—Second Substitute Senate Bill No. 5581 (life sciences)))~~ chapter 424, Laws of 2005 (life sciences research). ~~((If the bill is not enacted by June 30, 2005, the appropriation in this section shall lapse.))~~

\*Sec. 711. 2005 c 518 s 720 (uncodified) is amended to read as follows:

**STRATEGIC PURCHASING STRATEGY.** (1) The office of financial management shall work with the appropriate state agencies to generate savings of ~~(((\$50,000,000, of which \$25,000,000 shall be))~~ \$22,202,000 from the state general fund, that can arise from a strategic purchasing strategy. From appropriations in this act, the office of financial management shall reduce general fund—state allotments by ~~(((\$8 million))~~ \$3,368,000 for fiscal year 2006 and by ~~(((\$17 million))~~ \$18,834,000 for fiscal year 2007 to reflect the savings from the strategic purchasing strategy. The allotment reductions shall be placed in unallotted status and remain unexpended. These unexpended amounts shall lapse to the state general fund at the end of each fiscal year.

(2) The department of general administration, with the assistance of the department of information services and the department of printing and in consultation with the office of financial management, shall conduct an analysis of the state's purchasing processes to identify the most reasonable strategy of attaining a statewide savings target of ~~(((\$50,000,000))~~ \$22,202,000 from the state general fund without affecting direct program activities. The analysis shall identify savings by agency and fund that will result from the implementation of a strategic purchasing strategy. The results of this analysis shall then be provided to the director of financial management by October 1, 2005, and updated as needed, so the director may use it as the basis to achieve the savings identified in subsection (1) of this section.

(3) Before the purchase of goods and services, all state agencies and higher education institutions shall first consider the utilization of current or existing master contracts. All state agencies and higher education institutions shall strive to use master contracts when that use is consistent with the agency's requirements and purchase is financially cost-effective.

*(4) The state board for community and technical colleges shall not be subject to any allotment reduction resulting from the strategic purchasing strategy under this section.*

\*Sec. 711 was partially vetoed. See message at end of chapter.

NEW SECTION. **Sec. 712.** A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—ENERGY FREEDOM ACCOUNT**

General Fund—State Appropriation (FY 2007) . . . . . \$23,000,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for deposit into the energy freedom account. If Engrossed Third Substitute House Bill No. 2939 (energy freedom) is not enacted by June 30, 2006, the appropriation in this section shall lapse.

NEW SECTION. Sec. 713. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—CONTRIBUTIONS TO RETIREMENT SYSTEMS**

General Fund—State Appropriation (FY 2007) . . . . . \$1,100,000

Special Account Retirement Contribution

    Increase Revolving Account Appropriation . . . . . \$200,000

    TOTAL APPROPRIATION . . . . . \$1,300,000

The appropriations in this subsection are subject to the following conditions and limitations:

(1) \$500,000 of the general fund—state appropriation for fiscal year 2007 and \$200,000 of the special account retirement contribution appropriation are provided solely to adjust agency appropriations to reflect increased employer contributions pursuant to Senate Bill No. 6453 (\$1000 minimum benefit). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(2) \$600,000 of the general fund—state appropriation for fiscal year 2007 is provided solely to reflect increased employer contributions pursuant to Substitute House Bill No. 2684 (plan 3 five-year vesting). If the bill is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(3) To facilitate the transfer of moneys to dedicated funds and accounts, the state treasurer shall transfer sufficient moneys to each dedicated fund or account from the special account retirement contribution increase revolving account in accordance with schedules provided by the office of financial management.

NEW SECTION. Sec. 714. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—WASHINGTON HOUSING TRUST FUND**

General Fund—State Appropriation (FY 2007) . . . . . \$14,000,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for deposit into the Washington housing trust fund. If Engrossed Second Substitute House Bill No. 2418 (affordable housing) is not enacted by June 30, 2006, the appropriation in this section shall lapse.

NEW SECTION. Sec. 715. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—PERSONNEL LITIGATION SETTLEMENT**

General Fund—State Appropriation (FY 2007) . . . . .	\$11,813,000
Special Personnel Litigation Revolving	
Account Appropriation . . . . .	\$10,689,000
TOTAL APPROPRIATION . . . . .	\$22,502,000

The appropriations in this section are subject to the following conditions and limitations:

(1) The entire appropriation is provided solely for the purposes of the settlement of litigation involving compensation differentials among personnel classes, *W.P.E.A. v. State of Washington*.

(2) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer shall transfer sufficient moneys from each dedicated fund or account, including local funds of state agencies and institutions of higher education, to the special personnel litigation revolving account in accordance with LEAP document number 2006-S11 dated March 3, 2006.

NEW SECTION. **Sec. 716.** A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—VETERANS INNOVATIONS PROGRAM ACCOUNT**

General Fund—State Appropriation (FY 2007) . . . . .	\$2,000,000
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The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for deposit into the veterans innovations program account. If Engrossed Second Substitute House Bill No. 2754 (veterans' programs) is not enacted by June 30, 2006, the appropriation in this section shall lapse.

**Sec. 717.** 2005 c 518 s 724 (uncodified) is amended to read as follows:

**INCENTIVE SAVINGS—FY 2006.** The sum of one hundred million dollars or so much thereof as may be available on June 30, 2006, from the total amount of unspent fiscal year 2006 state general fund appropriations, exclusive of amounts placed in unallotted status pursuant to section 711 of this act, is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed seventy-five million dollars, is appropriated to the education savings account.

**Sec. 718.** 2005 c 518 s 725 (uncodified) is amended to read as follows:

**INCENTIVE SAVINGS—FY 2007.** The sum of one hundred million dollars or so much thereof as may be available on June 30, 2007, from the total amount of unspent fiscal year 2007 state general fund appropriations, exclusive of amounts placed in unallotted status pursuant to section 711 of this act, is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) The remainder of the total amount, not to exceed seventy-five million dollars, is appropriated to the education savings account.

NEW SECTION. Sec. 719. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—EXTRAORDINARY CRIMINAL JUSTICE COSTS**  
General Fund—State Appropriation (FY 2007) . . . . . \$54,000

The appropriation in this section is subject to the following conditions and limitations: The director of financial management shall distribute the appropriation to Grant county for extraordinary criminal justice costs.

NEW SECTION. Sec. 720. A new section is added to 2005 c 518 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—COMMUNITY HEALTH CARE COLLABORATIVE ACCOUNT**  
General Fund—State Appropriation (FY 2007) . . . . . \$1,400,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for deposit to the community health care collaborative account under Second Substitute Senate Bill No. 6459. If the bill is not enacted by June 30, 2006, the appropriation in this section shall lapse.

NEW SECTION. Sec. 721. A new section is added to 2005 c 518 (uncodified) to read as follows:

**ENGGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6239.**  
Amounts provided in this act are sufficient to implement the provisions of sections 101 through 404 of Engrossed Second Substitute Senate Bill No. 6239 (controlled substances).

**PART VIII  
OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 801.** 2005 c 518 s 801 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**  
General Fund Appropriation for fire insurance  
premium distributions . . . . . (\$6,577,000)  
\$6,561,000  
General Fund Appropriation for public utility  
district excise tax distributions . . . . . (\$45,422,000)  
\$44,292,000  
General Fund Appropriation for prosecuting  
attorney distributions . . . . . (\$3,457,000)

	<u>\$3,568,000</u>
General Fund Appropriation for boating safety and education distributions . . . . .	(( <del>\$4,430,000</del> ))
	<u>\$4,252,000</u>
General Fund Appropriation for other tax distributions . . . . .	\$38,000
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies . . . . .	\$1,969,000
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution . . . . .	\$147,000
Timber Tax Distribution Account Appropriation for distribution to "timber" counties . . . . .	(( <del>\$71,110,000</del> ))
	<u>\$83,325,000</u>
County Criminal Justice Assistance Appropriation . . . . .	(( <del>\$53,914,000</del> ))
	<u>\$53,650,000</u>
Municipal Criminal Justice Assistance Appropriation . . . . .	(( <del>\$21,104,000</del> ))
	<u>\$21,315,000</u>
Liquor Excise Tax Account Appropriation for liquor excise tax distribution . . . . .	(( <del>\$37,413,000</del> ))
	<u>\$40,512,000</u>
Liquor Revolving Account Appropriation for liquor profits distribution . . . . .	(( <del>\$76,186,000</del> ))
	<u>\$88,818,000</u>
City-County Assistance Account Appropriation for local government financial assistance distribution . . . . .	\$20,100,000
TOTAL APPROPRIATION . . . . .	(( <del>\$350,527,000</del> ))
	<u>\$368,547,000</u>

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

**Sec. 802.** 2005 c 518 s 802 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—FOR THE COUNTY CRIMINAL JUSTICE ASSISTANCE ACCOUNT**

Impaired Driving Safety Account Appropriation . . . . .	(( <del>\$1,913,400</del> ))
	<u>\$2,050,000</u>

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed quarterly during the 2005-07 biennium in accordance with RCW 82.14.310. This funding is provided to counties for the costs of implementing criminal justice legislation including, but not limited to: Chapter 206, Laws of 1998 (drunk driving penalties); chapter 207, Laws of 1998 (DUI penalties); chapter 208, Laws of 1998 (deferred prosecution); chapter 209, Laws of 1998 (DUI/license suspension); chapter 210, Laws of 1998 (ignition interlock violations); chapter 211, Laws of 1998 (DUI penalties); chapter 212, Laws of 1998 (DUI

penalties); chapter 213, Laws of 1998 (intoxication levels lowered); chapter 214, Laws of 1998 (DUI penalties); and chapter 215, Laws of 1998 (DUI provisions).

Sec. 803. 2005 c 518 s 803 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—FOR THE MUNICIPAL CRIMINAL JUSTICE ASSISTANCE ACCOUNT**

Impaired Driving Safety Account Appropriation . . . . .((~~\$1,275,600~~))  
\$1,367,000

The appropriation in this section is subject to the following conditions and limitations: The amount appropriated in this section shall be distributed quarterly during the 2005-07 biennium to all cities ratably based on population as last determined by the office of financial management. The distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), shall be made to the county in which the city is located. This funding is provided to cities for the costs of implementing criminal justice legislation including, but not limited to: Chapter 206, Laws of 1998 (drunk driving penalties); chapter 207, Laws of 1998 (DUI penalties); chapter 208, Laws of 1998 (deferred prosecution); chapter 209, Laws of 1998 (DUI/license suspension); chapter 210, Laws of 1998 (ignition interlock violations); chapter 211, Laws of 1998 (DUI penalties); chapter 212, Laws of 1998 (DUI penalties); chapter 213, Laws of 1998 (intoxication levels lowered); chapter 214, Laws of 1998 (DUI penalties); and chapter 215, Laws of 1998 (DUI provisions).

Sec. 804. 2005 c 518 s 804 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—FEDERAL REVENUES FOR DISTRIBUTION**

General Fund Appropriation for federal grazing  
fees distribution . . . . .((~~\$1,632,000~~))  
\$1,644,000  
General Fund Appropriation for federal flood  
control funds distribution . . . . . \$68,000  
Forest Reserve Fund Appropriation for federal  
forest reserve fund distribution . . . . . \$84,500,000  
TOTAL APPROPRIATION . . . . .((~~\$86,200,000~~))  
\$86,212,000

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

Sec. 805. 2005 c 518 s 805 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—TRANSFERS.** For transfers in this section to the state general fund, pursuant to RCW 43.135.035(5), the state expenditure limit shall be increased by the amount of the transfer. The increase shall occur in the fiscal year in which the transfer occurs.

State Convention and Trade Center Account:  
For transfer to the state general fund,  
\$5,150,000 for fiscal year 2006 and \$5,150,000  
for fiscal year 2007 . . . . . \$10,300,000



General Fund: For transfer to the tourism development and promotion account, \$150,000 for fiscal year 2006 and \$150,000 for fiscal year 2007 . . . . .	\$300,000
Financial Services Regulation Account: For transfer to the state general fund, \$778,000 for fiscal year 2006 and \$779,000 for fiscal year 2007 . . . . .	\$1,557,000
Public Works Assistance Account: For transfer to the drinking water assistance account, \$8,400,000 for fiscal year 2006 . . . . .	\$8,400,000
Tobacco Settlement Account: For transfer to the health services account, in an amount not to exceed the actual balance of the tobacco settlement account . . . . .	\$185,823,000
Health Services Account: For transfer to the state general fund, \$45,000,000 for fiscal year 2006 . . . . .	\$45,000,000
Health Services Account: For transfer to the tobacco prevention and control account . . . . .	<del>(\$23,366,000)</del>
	<u>\$25,086,000</u>
Health Services Account: For transfer to the water quality account . . . . .	\$7,885,000
Health Services Account: For transfer to the violence reduction and drug enforcement account . . . . .	\$6,932,000
Public Employees' and Retirees' Insurance Account: For transfer to the state general fund, \$40,000,000 for fiscal year 2006 and \$45,000,000 for fiscal year 2007 . . . . .	\$85,000,000
Department of Retirement Systems Expense Account: For transfer to the state general fund, \$2,000,000 for fiscal year 2006 . . . . .	\$2,000,000
Secretary of State's Revolving Account: For transfer to the state general fund, \$250,000 for fiscal year 2006 and \$250,000 for fiscal year 2007 . . . . .	\$500,000
State Treasurer's Service Account: For transfer to the state general fund, <del>(\$5,500,000)</del> <u>\$9,500,000</u> for fiscal year 2006 and <del>(\$5,000,000)</del> <u>\$7,000,000</u> for fiscal year 2007 . . . . .	<del>(\$10,500,000)</del>
	<u>\$16,500,000</u>
General Fund: For transfer to the water quality account, \$318,000 for fiscal year 2006 and \$319,000 for fiscal year 2007 . . . . .	\$637,000
State Toxics Control Account: For transfer to the water quality account . . . . .	\$12,500,000
Water Quality Account: For transfer to the	

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water pollution control revolving account . . . . .	(\$10,534,000)	
		<u>\$16,534,000</u>
Pollution Liability Insurance Trust Account: For transfer to the state general fund . . . . .	(\$7,500,000)	
		<u>\$3,750,000</u>
Drinking Water Assistance Account: For transfer to the drinking water assistance repayment account, an amount not to exceed . . . . .	(\$15,000,000)	
		<u>\$21,800,000</u>
Waste Reduction, Recycling, and Litter Control Account: For transfer to the state general fund, \$1,000,000 for fiscal year 2006 and \$1,000,000 for fiscal year 2007 . . . . .		\$2,000,000
Public Works Assistance Account: For transfer to the public facility construction loan revolving account, \$4,500,000 for fiscal year 2006 . . . . .		\$4,500,000
Nisqually Earthquake Account: For transfer to the disaster response account, \$3,000,000 for fiscal year 2006 . . . . .		\$3,000,000
Natural Resources Equipment Revolving Fund: For transfer to the state general fund for fiscal year 2006 . . . . .		\$1,000,000
General Fund: For transfer to the violence reduction and drug enforcement account, \$1,500,000 for fiscal year 2006 and \$1,500,000 for fiscal year 2007 . . . . .		\$3,000,000
Education Legacy Trust Account: For transfer to the student achievement account, <del>(\$35,541,000)</del> <u>\$35,555,000</u> for fiscal year 2006 and <del>(\$102,697,000)</del> <u>\$103,046,000</u> for fiscal year 2007 . . . . .		
		<u>\$138,601,000</u>

**Sec. 806.** 2005 c 518 s 806 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—TRANSFERS.** For transfers in this section to the state general fund, pursuant to RCW 43.135.035(5), the state expenditure limit shall be increased by the amount of the transfer. The increase shall occur in the fiscal year in which the transfer occurs. The transfers are subject to the enactment of Senate Bill No. 5391 (tricare supplemental insurance), chapter 46, Laws of 2005.

Public Employees' and Retirees' Insurance Account: For transfer to the state general fund, \$5,000,000 ( <del>for fiscal year 2006 and \$12,000,000</del> ) for fiscal year 2007 . . . . .		
		<u>\$5,000,000</u>
<del>((General Fund—State Account: For transfer to the tourism development and promotion account, \$150,000 for fiscal year 2006 and \$150,000 for fiscal year 2007 . . . . .</del>		<del>\$300,000))</del>

**PART IX  
MISCELLANEOUS**

**Sec. 901.** 2005 c 518 s 948 (uncodified) is amended to read as follows:

**COMPENSATION—INSURANCE BENEFITS.** The appropriations for state agencies, including institutions of higher education are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$663.00 per eligible employee for fiscal year 2006. For fiscal year 2007 the monthly employer funding rate shall not exceed \$744.00 per eligible employee represented by a collective bargaining unit under the personnel system reform act of 2002, or \$618.00 per eligible nonrepresented employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2006, through December 31, 2006, the subsidy shall be \$131.87. Starting January 1, 2007, the subsidy shall be \$149.67 per month.

(3) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, \$48.42 per month beginning September 1, 2005, and (~~(\$55.73)~~) \$55.15 beginning September 1, 2006;

(b) For each part-time employee who, at the time of the remittance, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$48.42 each month beginning September 1, 2005, and (~~(\$55.73)~~) \$55.15 beginning September 1, 2006, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives. The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

NEW SECTION. **Sec. 902.** A new section is added to 2005 c 518 (uncodified) to read as follows:

**COLLECTIVE BARGAINING AGREEMENT—WASHINGTON STATE UNIVERSITY, WFSE BU 2.** Budget amounts reflect the collective bargaining agreement reached between Washington State University and the Washington federation of state employees bargaining unit 2 — service employees under the personnel system reform act of 2002. For employees covered under this agreement, provisions include a 3.2% salary increase effective retroactive to July 1, 2005. Provisions also include a one-time 2% lump sum payment effective July 1, 2006, and implementation of the department of personnel 2002 salary survey for classes more than 25% below market rate.

**Sec. 903.** RCW 2.36.150 and 2004 c 127 s 1 are each amended to read as follows:

Jurors shall receive for each day's attendance, besides mileage at the rate determined under RCW 43.03.060, the following expense payments:

- (1) Grand jurors may receive up to twenty-five dollars but in no case less than ten dollars;
- (2) Petit jurors may receive up to twenty-five dollars but in no case less than ten dollars;
- (3) Coroner's jurors may receive up to twenty-five dollars but in no case less than ten dollars;
- (4) District court jurors may receive up to twenty-five dollars but in no case less than ten dollars:

PROVIDED, That a person excused from jury service at his or her own request shall be allowed not more than a per diem and such mileage, if any, as to the court shall seem just and equitable under all circumstances: PROVIDED FURTHER, That the state shall fully reimburse the county in which trial is held for all jury fees and witness fees related to criminal cases which result from incidents occurring within an adult or juvenile correctional institution: PROVIDED FURTHER, That the expense payments paid to jurors shall be determined by the county legislative authority and shall be uniformly applied within the county.

For the fiscal year ending June 30, 2007, jurors participating in pilot projects in superior, district, and municipal courts may receive juror fees of up to sixty-two dollars for each day of attendance in addition to mileage reimbursement at the rate determined under RCW 43.03.060.

**Sec. 904.** RCW 28A.500.030 and 2005 c 518 s 914 are each amended to read as follows:

Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

- (1) Funds raised by the district through maintenance and operation levies shall be matched with state funds using the following ratio of state funds to levy funds:
  - (a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; to
  - (b) The statewide average twelve percent levy rate.
- (2) The maximum amount of state matching funds for districts eligible for local effort assistance shall be the district's twelve percent levy amount, multiplied by the following percentage:

(a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; divided by

(b) The district's twelve percent levy rate.

(3) Calendar year 2003 allocations and maximum eligibility under this chapter shall be multiplied by 0.99.

(4) From January 1, 2004, to December 31, 2005, allocations and maximum eligibility under this chapter shall be multiplied by 0.937.

(5) From January 1, 2006, to ~~((June 30, 2007))~~ December 31, 2006, allocations and maximum eligibility under this chapter shall be multiplied by 0.9563.

**Sec. 905.** RCW 73.04.135 and 1994 c 147 s 3 are each amended to read as follows:

(1) The director may place a claim against the estate of an incapacitated or deceased veteran who is a veteran estate management program client. The claim shall not exceed the amount allowed by rule of the United States department of veterans affairs and charges for reasonable expenses incurred in the execution or administration of the estate. The director shall waive all or any portion of the claim if the payment or a portion thereof would pose a hardship to the veteran.

(2) ~~((Any fees collected shall be deposited in the state general fund—local and shall be available for the cost of managing and supporting the veteran estate management program. All expenditures and revenue control shall be subject to chapter 43.88 RCW-))~~ The veteran estate management account is hereby created in the custody of the state treasurer. Fees, reimbursements, and grants collected from estates of incapacitated veterans or incapacitated veterans' dependents shall be deposited into the account. Funds in the account shall be expended solely for the purpose of providing financial operating and maintenance support to the veteran estate management program and shall be the sole source of funding for the program. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**\*Sec. 906.** RCW 79A.05.070 and 2003 c 186 s 1 are each amended to read as follows:

*The commission may:*

*(1) Make rules and regulations for the proper administration of its duties;*

*(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; enter into cooperative agreements with and provide for private nonprofit groups to use state park property and facilities to raise money to contribute gifts, grants, and support to the commission for the purposes of this chapter. The commission may assist the nonprofit group in a cooperative effort by providing necessary agency personnel and services, if available. However, none of the moneys raised may inure to the benefit of the nonprofit group, except in furtherance of its purposes to benefit the commission as provided in this chapter. The agency and the private nonprofit group shall agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or*

*facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;*

*(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;*

*(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;*

*(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;*

*(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper. Until July 1, 2007, the commission may not charge fees for general park access or parking;*

*(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed forty years;*

*(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040 and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and*

*(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: **PROVIDED, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose.***

*\*Sec. 906 was vetoed. See message at end of chapter.*

**Sec. 907.** RCW 90.56.120 and 2005 c 304 s 2 are each amended to read as follows:

(1)(a) There is established in the office of the governor the oil spill advisory council.

(b) The primary purpose of the council is to maintain the state's vigilance in, by ensuring an emphasis on, the prevention of oil spills to marine waters, while recognizing the importance of also improving preparedness and response.

(c) The council shall be an advisory body only.

(2)(a) In addition to members appointed under (b) of this subsection, the council is composed of the chair-facilitator and sixteen members representing various interests as follows:

(i) Three representatives of environmental organizations;

(ii) One representative of commercial shellfish interests;

(iii) One representative of commercial fisheries that primarily fishes in Washington waters;

(iv) One representative of marine recreation;

(v) One representative of tourism interests;

(vi) Three representatives of county government from counties bordering Puget Sound, the Columbia river/Pacific Ocean, and the Strait of Juan de Fuca/San Juan Islands;

(vii) One representative of marine labor;

(viii) Two representatives of marine trade interests;

(ix) One representative of major oil facilities;

(x) One representative of public ports; and

(xi) An individual who resides on a shoreline who has an interest, experience, and familiarity in the protection of water quality.

(b) In addition to the members identified in this subsection, the governor shall invite the participation of tribal governments through the appointment of two representatives to the council.

(3) Appointments to the council shall reflect a geographical balance and the diversity of populations within the areas potentially affected by oil spills to state waters.

(4) Members shall be appointed by the governor and shall serve four-year terms, except the initial members appointed to the council. Initial members to the council shall be appointed as follows: Six shall serve two-year terms, six shall serve three-year terms, and seven shall serve four-year terms. Vacancies shall be filled by appointment in the same manner as the original appointment for the remainder of the unexpired term of the position vacated. Members serve at the pleasure of the governor.

(5) The governor shall appoint a chair-facilitator who shall serve as a nonvoting member of the council. The chair shall not be an employee of a state agency, nor shall the chair have a financial interest in matters relating to oil spill prevention, preparedness, and response. The chair shall convene the council at least four times per year. At least one meeting per year shall be held in a Columbia river community, an ocean coastal community, and a Puget Sound community. The chair shall consult with councilmembers in setting agendas and determining meeting times and locations.

(6) All members shall be reimbursed for travel expenses while attending meetings of the council or technical advisory committees, or when on official business authorized by the chair-facilitator, as provided in RCW 43.03.050 and 43.03.060. Members of the council identified in subsection (2)(a)(i), (ii), (iii), (iv), (v), (vi), (vii), and (xi) of this section and the chair-facilitator shall each be compensated on a per diem basis as a class two group according to RCW 43.03.230.

(7) The first meeting of the council shall be convened by the governor or the governor's designee. Other meetings may be convened by a vote of at least a majority of the voting members of the council, or by call of the chair. All meetings are subject to the open public meetings act. The council shall maintain minutes of all meetings.

(8) To the extent possible, all decisions of the council shall be by the consensus of the members. If consensus is not possible, nine voting members of the council may call for a vote on a matter. When a vote is called, all decisions shall be determined by a majority vote of the voting members present. Two-thirds of the voting members are required to be present for a quorum for all votes. The subject matter of all votes and the vote tallies shall be recorded in the minutes of the council.

(9) The council may form subcommittees and technical advisory committees.

**NEW SECTION. Sec. 908.** 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. 909.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Passed by the Senate March 8, 2006.  
Passed by the House March 8, 2006.  
Approved by the Governor March 31, 2006, with the exception of certain items that were vetoed.  
Filed in Office of Secretary of State March 31, 2006.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to parts of Sections 126(42), 126(63), 128(3), 128(10), 131(2), 137(12), 139, 204(1)(x), 207(5), 217(13), 217(17), 221(25), 302(16), 307(21)(c), 308(16), 518(4), 602(16), 602(22), 602(25), 603(18), 604(14), 606(5), 607(7), 611(1), 611(3), 708(1)(d), 711(4), and 906, of Engrossed Substitute Senate Bill No. 6386 entitled:

"AN ACT Relating to fiscal matters."

My reasons for vetoing the above-noted Sections are as follows:

**Section 126(42), page 31, Department of Community, Trade, and Economic Development, Small Business Incubators**

This proviso funds implementation of Third Substitute House Bill 1815 pertaining to Small Business Incubators, and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 126(42).

**Section 126(63), page 34, Department of Community, Trade, and Economic Development, Washington Trade Corps Fellowship Program**

This proviso funds implementation of Substitute Senate Bill 6330 and stipulates that the appropriation will lapse if the bill is not enacted. Since I have vetoed Substitute Senate Bill 6330, I have also vetoed Section 126(63).

**Section 128(3), page 36, Office of Financial Management, Classified School Employees**

New language directs the Washington Learns steering committee to review funding for classified school employees and to report findings and recommendations that include how classified school employees can enhance students' abilities to meet state learning standards. Washington Learns is a comprehensive study of education from early learning through higher education, encompassing all employee groups within the educational system. I have vetoed Section 128(3) because it is not necessary to single out any specific class of employees, and because the requirements of this new language will be met under the current work plan for Washington Learns.

**Section 128(10), page 38, Office of Financial Management, Report on State-purchased Health Care Costs**

This proviso requires the Office of Financial Management to prepare a report on state-purchased health care costs and expenditures. Since no funding is provided for this activity, I have vetoed section 128(10).

**Section 131(2), page 40, State Lottery, Research**

This proviso permits the use of agency appropriations for the implementation of Senate Concurrent Resolution 8417, and stipulates that the subsection will lapse if the resolution is not enacted. Since that resolution did not pass the Legislature, I have vetoed Section 131(2).

**Section 137(12), page 46, Department of Revenue, Streamlined Sales Tax**

This proviso funds implementation of Substitute Senate Bill 6594 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 137(12).

**Section 139, page 46-47, Municipal Research Council, Special Purpose Districts**

I have vetoed the portion of Substitute Senate Bill 6555 that diverts revenue from the general fund to the Special Purpose District Research Services Account. For consistency, I also have vetoed Section 139.

**Section 204(1)(x), page 77, Department of Social and Health Services Mental Health Division, Mental Health Professionals**

This proviso references Second Substitute House Bill 2912, which would require two mental health care professionals for all home visits that require mental health evaluations. Since that bill did not pass the Legislature, I have vetoed Section 204(1)(x).

**Section 207(5), page 94, Department of Social and Health Services Economic Services Division, Child Support Schedule**

This proviso funds Second Substitute House Bill 2462, which established work groups to periodically review the child support schedule, and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 207(5).

**Section 217(13), page 116, Department of Labor and Industries, Agricultural Workers**

This proviso funds Engrossed House Bill 2623 relating to agricultural workers, and stipulates that the appropriation will lapse if the bill is not enacted. Since the bill did not pass the Legislature, I have vetoed Section 217(13).

**Section 217(17), pages 116-117, Department of Labor and Industries, Brochures on Building Contractors**

This proviso provides \$10,000 General Fund-State solely for the Department of Labor and Industries to prepare consumer information brochures on contracting for new construction or remodeling construction work. I am directing the Department of Labor and Industries to perform all the functions and procedures listed in this proviso within existing funds. I have, therefore, vetoed Section 217(17).

**Section 221(25), page 126, Department of Health, Background Checks/Health Care**

This proviso funds implementation of Substitute House Bill 2431 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 221(25).

**Section 302(16), page 142, Department of Ecology, Brominated Flame Retardants**

This proviso funds implementation of Engrossed Second Substitute House Bill 1488 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 302(16).

**Section 307(21)(c), page 153, Department of Fish and Wildlife, Fiscal Reporting and Modeling**

This section requires Washington's Department of Fish and Wildlife (WDFW) to develop an electronic revenue forecast model with the Office of Financial Management and the Department of Revenue for forecasting the state Wildlife Account. Although the WDFW's ability to accurately forecast revenues has been a concern in the past, its current methodology has proven generally reliable. There is no evidence that a new forecasting model would significantly improve state Wildlife Account forecasts, and no additional funding was provided to develop a new model. For these reasons, I have vetoed Section 307(21)(c).

**Section 308(16), page 161, Department of Natural Resources, Wildfire Prevention**

This proviso directs the Department of Natural Resources to implement a workgroup defined in Substitute Senate Bill 6603, relating to wildfire prevention. Since that bill did not pass the Legislature, I have vetoed Section 308(16). However, the department has the authority to engage in this activity and I would encourage it to do so.

**Section 518(4), page 222-223, Department of Early Learning, Contingency Funding**

This proviso was included in the budget to serve as a contingency to reverse the funding transfers to the Department of Early Learning, if the new department had not been created. Since Second Substitute House Bill 2964 passed the Legislature, and the Department of Early Learning goes into effect on July 1, 2006, I have vetoed this section for the technical reason that it is no longer needed.

**Section 602(16), page 229, State Board for Community and Technical Colleges, High Demand Training**

This proviso provides funding for and directs the State Board for Community and Technical Colleges to identify high demand occupations, develop or utilize skills standards or credentials for those occupations, and market the standards and credentials to educational institutions and employers. This agency, the Higher Education Coordinating Board, the Workforce Training and Education Coordinating Board, and the Department of Employment Security have already accomplished much of this work in prior studies. I have, therefore, vetoed Section 602(16).

**Section 602(22), page 231, State Board for Community and Technical Colleges, Nursing Faculty Retention Pilot Program**

This proviso attempts to address a real problem relating to nursing recruitment and retention, but addresses it in a very narrow fashion. The State Board for Community and Technical Colleges, along with industry stakeholders, needs to consider various, statewide options for retaining nursing faculty and keeping qualified teachers in the classroom. This proviso directs state funds to a very limited number of sites with no plan for retention of faculty beyond the current year. Therefore, I have vetoed Section 602(22).

**Section 602(25), page 231, State Board for Community and Technical Colleges, High School Completion**

This proviso indicates that there is sufficient funding in the State Board for Community and Technical Colleges' budget to implement Engrossed Second Substitute House Bill 2582. Since that bill did not pass the Legislature, I have vetoed Section 602(25).

**Section 603(18), page 235, University of Washington, Public Curriculum Study**

This proviso directs the University of Washington's College of Education to conduct a review of curriculum offered by Washington public schools to examine the extent to which the curriculum accurately includes the history, contributions, and contemporary experiences of people of color. With 296 school districts in Washington making individual decisions regarding curriculum offered to students in more than 2,000 Washington schools, the study is a monumental task. It is not clear that the results of a narrow study will be applicable throughout the state. While this is an important issue, the scope of the study needs to be refined or funding must be increased. Therefore, I have vetoed Section 603(18).

**Section 604(14), page 239, Washington State University, Local Government Reference**

Although the provision of local government reference books may be valuable, this effort should be prioritized within existing resources. Therefore, I have vetoed Section 604(14).

**Section 606(5), page 243, Central Washington University, Additional Tuition Waivers**

This proviso funds additional tuition waivers. While I understand the inequity in the original waiver limits set by the Legislature more than a decade ago, I do not concur with this appropriation for a purpose that does not create additional enrollment slots for our students. Since the waiver limit has

been in place so long, it is also clear that this is not an emergency that requires action in a supplemental budget. Therefore, I have vetoed Section 606(5).

**Section 607(7), page 245, The Evergreen State College, Collective Bargaining Unit Training**

This proviso expands collective bargaining and bargaining unit training at The Evergreen State College's Labor Education and Research Center. The Center currently provides similar training by contracting with those who will receive the training. The Center can expand the collective bargaining and bargaining unit training under its current finance model, so I have vetoed Section 607(7).

**Section 611(1), page 256, Workforce Training and Education Coordinating Board, Private Vocational Schools**

This proviso funds implementation of House Bill 2597 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 611(1).

**Section 611(3), page 257, Workforce Training and Education Coordinating Board, Worker Training B & O Tax**

This proviso funds implementation of Engrossed Substitute House Bill 2565, relating to worker training business and occupation tax. The appropriation will lapse if the bill is not enacted. Engrossed Substitute House Bill 2565 did not pass the Legislature, so I have vetoed Section 611(3).

**Section 708(1)(d), page 266, Department of Retirement Systems, Implementation of SHB 2934 (Survivor Health Benefits)**

This proviso funds the implementation of Substitute House Bill 2934, and stipulates that the appropriation will lapse if the bill is not enacted. The provisions of that bill, however, passed the Legislature in Senate Bill 6723. Since the bill cited in this proviso did not pass the Legislature, I have vetoed Section 708(1)(d) for the sake of clarity.

**Section 711(4), page 268, Strategic Purchasing Strategy**

This proviso indicates that the State Board for Community and Technical Colleges is not subject to the General Fund-State allotment reduction related to implementation of a statewide purchasing strategy. In order to continue to encourage all state agencies to be as efficient and economical in their purchasing as possible, I have vetoed Section 711(4), and will direct the Department of General Administration to work with the colleges on a practical approach to achieve purchasing savings.

**Section 906, pages 282-284, State Parks and Recreation Commission, Authority to Charge Day-Use Access or Parking Fees**

This section prohibits the State Parks and Recreation Commission from charging fees for general park access or parking from the effective date of this bill through June 30, 2007. This prohibition also appears in Section 303(5) of this bill. Since the underlying statute has also been amended in Substitute House Bill 2416 to prohibit general park access or parking fees permanently, beginning April 9, 2006, Section 906 is redundant and unnecessary, I have vetoed Section 906. However, to harmonize the temporary disparities in effective dates, I hereby direct the State Parks and Recreation Commission to discontinue collecting these fees effective immediately.

In addition to these vetoes, I would like to comment on two other aspects of this bill:

**Emergency Management**

Section 150(7) provides \$2 million for the Military Department to expand its emergency management planning and training activities, study the feasibility of regional medical assistance and search-and-rescue teams, and administer a competitive grant program to support local emergency management efforts.

Emergency response is an important state priority, and I am directing the Military Department to report to me on a regular basis concerning the uses of this funding and the specific improvements in emergency preparation that have been achieved through the grant process.

**Capital Projects**

This operating budget bill includes funding for facility repair and renovation, trail upgrades, and property improvements that more appropriately belong in the capital budget. Although these projects have distinct public benefit, they create long-term assets and should be considered among all other capital needs and priorities rather than competing against critical general fund operating

programs. I sincerely hope that next year the Legislature will keep projects of this nature out of the operating budget and in the capital budget, where they properly belong.

With the exception of those portions of sections 126(42), 126(63), 128(3), 128(10), 131(2), 137(12), 139, 204(1)(x), 207(5), 217(13), 217(17), 221(25), 302(16), 307(21)(c), 308(16), 518(4), 602(16), 602(22), 602(25), 603(18), 604(14), 606(5), 607(7), 611(1), 611(3), 708(1)(d), 711(4), and 906, as specified above, Engrossed Substitute Senate Bill No. 6386 is approved."

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### AUTHENTICATION

I, K. Kyle Thiessen, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2006 session (59th Legislature), chapters 274 through 372, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 7th day of April, 2006.

A handwritten signature in cursive script that reads "K. Kyle Thiessen". The signature is written in black ink and is positioned above the printed name and title.

K. KYLE THIESSEN  
Code Reviser



PROPOSED CONSTITUTIONAL AMENDMENT  
ADOPTED AT THE 2006 REGULAR SESSION  
FOR SUBMISSION TO THE VOTERS  
AT THE STATE GENERAL ELECTION, NOVEMBER 2006

**HOUSE JOINT RESOLUTION 4223**

BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VII, section 1 of the Constitution of the state of Washington to read as follows:

Article VII, section 1. The power of taxation shall never be suspended, surrendered or contracted away. All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax and shall be levied and collected for public purposes only. The word "property" as used herein shall mean and include everything, whether tangible or intangible, subject to ownership. All real estate shall constitute one class: *Provided*, That the legislature may tax mines and mineral resources and lands devoted to reforestation by either a yield tax or an ad valorem tax at such rate as it may fix, or by both. Such property as the legislature may by general laws provide shall be exempt from taxation. Property of the United States and of the state, counties, school districts and other municipal corporations, and credits secured by property actually taxed in this state, not exceeding in value the value of such property, shall be exempt from taxation. The legislature shall have power, by appropriate legislation, to exempt personal property to the amount of ~~((three))~~ fifteen thousand ~~(((\$3,000.00)))~~ (\$15,000.00) dollars for each head of a family liable to assessment and taxation under the provisions of the laws of this state of which the individual is the actual bona fide owner.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.

Passed by the House, February 11, 2006.

Passed by the Senate, March 6, 2006.

Filed in the Office of Secretary of State March 9, 2006.



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SB	6371	.....	155	
SB	6373	.....	64	
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Number	Chapter Number Laws of 2006		Number	Chapter Number Laws of 2006	
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HB	2330	.143	SHB	2537	.254
SHB	2333	.9	SHB	2538	.31
HB	2338	.21	SHB	2543	.210
EHB	2340	.19	HB	2544	.273
2SHB	2342	.108	SHB	2553	.274
SHB	2344	.20	HB	2562	.225
SHB	2345	.200	HB	2567	.188
HB	2348	.182	SHB	2569	.275
ESHB	2352	.201	E2SHB	2572	.255
E2SHB	2353	.54	SHB	2573	.103
HB	2364	.11	E2SHB	2575	.307
HB	2366	.202	SHB	2576	.138
HB	2367	.22	EHB	2579	.113
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HB	2379	.203	SHB	2608	.26
HB	2380	.204	HB	2612	.268
SHB	2382	.158	HB	2617	.212
SHB	2384	.340	SHB	2640	.178
HB	2386	.144	HB	2644	.213
SHB	2394	.107	ESHB	2651	.75
SHB	2402	.205	SHB	2654	.134
HB	2406	.25	ESHB	2661	.4
SHB	2407	.130	SHB	2670	.111
HB	2409	.126	HB	2671	.256
SHB	2414	.175	E2SHB	2673	.181
SHB	2415	.187	HB	2676	.32
SHB	2416	.141	SHB	2678	.276
E2SHB	2418	.349	ESHB	2680	.257
SHB	2419	.5	HB	2681	.365
HB	2424	.7	SHB	2684	.33
SHB	2426	.346	ESHB	2685	.309
SHB	2446	.121	SHB	2688	.350
HB	2454	.30	HB	2690	.214
SHB	2457	.172	SHB	2691	.189
HB	2465	.306	SHB	2695	.208
HB	2466	.177	HB	2704	.277
SHB	2471	.252	SHB	2713	.215
ESHB	2475	.106	SHB	2715	.76
HB	2477	.206	EHB	2716	.258
ESHB	2479	.207	SHB	2723	.77
SHB	2481	.145	SHB	2726	.34
SHB	2497	.253	2SHB	2754	.343
2SHB	2498	.105	SHB	2759	.35
SHB	2500	.104	SHB	2776	.36
HB	2501	.74	SHB	2778	.310

“PV” Denotes partial veto by Governor [ 2121 ]

**BILL NO. TO CHAPTER NO. OF 2006 STATUTES**

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SHB	2780 . . . . .		HB	3019. . . . . 280	
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SHB	2817 . . . . .		2SHB	3070. . . . . 262	
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SHB	2836 . . . . .		ESHB	3079. . . . . 264	PV
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HB	2857 . . . . .		SHB	3087. . . . . 81	
E2SHB	2860 . . . . .		E2SHB	3098. . . . . 263	
SHB	2867 . . . . .		SHB	3113. . . . . 179	
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SHB	2876 . . . . .		HB	3122. . . . . 95	
HB	2879 . . . . .		ESHB	3127. . . . . 116	PV
SHB	2880 . . . . .		SHB	3128. . . . . 43	
ESHB	2884 . . . . .		HB	3134. . . . . 163	
HB	2897 . . . . .		SHB	3137. . . . . 94	
SHB	2898 . . . . .		HB	3139. . . . . 93	
SHB	2908 . . . . .		SHB	3150. . . . . 92	
EHB	2910 . . . . .		HB	3154. . . . . 44	
SHB	2917 . . . . .		HB	3156. . . . . 91	
ESHB	2925 . . . . .		EHB	3159. . . . . 354	PV
HB	2932 . . . . .		SHB	3164. . . . . 281	
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2SHB	2964 . . . . .		EHB	3192. . . . . 88	
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HB	2975 . . . . .		EHB	3261. . . . . 313	PV
SHB	2976 . . . . .		HB	3266. . . . . 83	
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SHB	2985 . . . . .		EHB	3278. . . . . 12	
SHB	2987 . . . . .		SHB	3282. . . . . 366	
HB	2991 . . . . .		ESHB	3316. . . . . 167	
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“PV” Denotes partial veto by Governor [ 2122 ]

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

LEGEND				RCW	CH.	SEC.	
ADD	=	Add a new section		9.73.090	AMD	38	1
AMD	=	Amend existing law		9.91	ADD	188	1
DECD	=	Decodify existing law		9.94A	ADD	73	4
RECD	=	Recodify existing law		9.94A	ADD	122	1-3
REEN	=	Reenact existing law		9.94A.030	AMD	73	5
REMD	=	Reenact and amend		9.94A.030	AMD	122	6
REP	=	Repeal existing law		9.94A.030	AMD	122	7
				9.94A.030	AMD	124	1
				9.94A.030	AMD	139	4
				9.94A.030	AMD	139	5
2.08.064	AMD	20	1	9.94A.411	REMD	73	13
2.14	ADD	189	1	9.94A.411	REMD	271	1
2.28.170	AMD	339	106	9.94A.500	AMD	339	303
2.36.150	AMD	372	903	9.94A.505	REMD	73	6
4.16.190	AMD	8	303	9.94A.515	REMD	73	12
4.16.350	REEN	8	302	9.94A.515	REMD	125	5
4.24	ADD	130	3	9.94A.515	REMD	128	3
4.24	ADD	158	1	9.94A.515	REMD	139	2
4.24.210	REMD	212	6	9.94A.515	REMD	191	2
4.24.260	AMD	8	102	9.94A.515	REMD	228	9
4.24.5501	AMD	137	1	9.94A.515	REMD	277	6
4.24.680	AMD	355	2	9.94A.515	REMD	73	7
4.24.700	AMD	355	3	9.94A.525	REMD	128	6
4.92.100	AMD	82	1	9.94A.525	REMD	123	1
4.92.110	AMD	82	2	9.94A.533	AMD	339	301
4.96.020	AMD	82	3	9.94A.533	AMD	128	4
5.44.130	AMD	198	1	9.94A.545	AMD	73	8
5.52.050	AMD	198	2	9.94A.640	AMD	73	9
5.60.060	AMD	30	1	9.94A.650	AMD	73	10
5.60.060	AMD	202	1	9.94A.660	AMD	339	302
5.60.060	AMD	259	2	9.94A.660	AMD	133	1
5.64.010	AMD	8	101	9.94A.670	REMD	73	11
6.32.250	AMD	360	13	9.94A.690	AMD	122	4
7	ADD	8	305-313	9.94A.712	AMD	122	5
7	ADD	138	1-20	9.94A.712	AMD	124	2
7.07.050	AMD	209	1	9.94A.712	AMD	124	3
7.60.025	AMD	52	1	9.94A.713	AMD	130	1
7.68.020	AMD	268	1	9.94A.715	AMD	128	5
7.70	ADD	8	209,304	9.94A.715	AMD	130	2
			316	9.94A.835	AMD	123	2
7.70.065	AMD	93	1	9.95.420	AMD	313	2
7.70.080	AMD	8	315	9A.04.080	AMD	132	1
7.70.100	AMD	8	314	9A.42.010	AMD	228	1
7.80.070	AMD	270	5	9A.42.020	AMD	228	2
7.80.160	AMD	270	6	9A.42.030	AMD	228	3
7.84.050	AMD	270	7	9A.42.035	AMD	228	4
9.26A	ADD	193	1	9A.42.037	AMD	228	5
9.45	ADD	291	1	9A.42.060	AMD	228	6
9.46.240	AMD	290	2	9A.42.070	AMD	228	7
9.68A.070	AMD	139	3	9A.42.080	AMD	228	8
9.68A.090	REMD	139	1				

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
9A.44	ADD	125	2-4	13.40.0357	AMD	73	14
9A.44	AMD	126	4	15	ADD	171	2-7
9A.44	AMD	126	5				11,15
9A.44	AMD	126	6	15	ADD	330	1-21
9A.44.130	REMD	126	1	15	AMD	371	223
9A.44.130	AMD	126	2	15.04.200	AMD	330	24
9A.44.130	AMD	127	2	15.36	ADD	157	5-7
9A.44.130	REMD	128	1	15.36.012	AMD	157	2
9A.44.130	AMD	128	2	15.36.111	AMD	157	3
9A.44.130	REMD	129	1	15.36.511	AMD	157	4
9A.44.130	AMD	129	2	15.53.9018	AMD	209	2
9A.46.060	AMD	138	21	15.80.450	AMD	358	3
9A.46.110	AMD	95	3	15.80.490	AMD	358	4
9A.56	ADD	277	1-3	16.36	ADD	155	2
9A.56.010	AMD	277	4	16.52.117	AMD	287	1
9A.60	ADD	234	2	16.52.205	AMD	191	1
9A.82.010	REMD	193	2	16.57.160	AMD	156	3
9A.82.010	REMD	277	5	16.57.220	AMD	156	1
9A.88	ADD	250	2	16.58.130	AMD	156	2
10.14.130	AMD	138	22	16.68.020	AMD	155	1
10.31.100	AMD	138	23	16.68.020	RECD	155	2
10.77.020	AMD	109	1	18.16.280	AMD	162	2
10.93.020	AMD	284	16	18.20.020	AMD	242	1
11.11.020	AMD	203	1	18.20.290	AMD	64	1
11.11.040	AMD	203	2	18.20.390	AMD	209	3
11.24.020	AMD	360	9	18.27.060	AMD	185	14
11.62.005	AMD	360	15	18.27.240	AMD	270	8
11.62.010	AMD	360	16	18.27.280	REP	270	13
11.95	ADD	360	12	18.29.190	AMD	66	1
11.95.070	AMD	360	8	18.29.200	REP	66	2
11.96A	ADD	360	11	18.35.020	AMD	263	801
11.96A.030	AMD	360	10	18.35.195	AMD	263	802
11.104A.040	AMD	360	1	18.53	ADD	232	2
11.104A.050	AMD	360	2	18.53.010	AMD	232	1
11.108	ADD	360	4	18.57.174	REP	99	10
11.108.010	AMD	360	3	18.71.015	AMD	8	103
11.108.025	AMD	360	5	18.71.0193	REP	99	10
11.108.060	AMD	360	6	18.83.200	AMD	263	803
11.108.900	AMD	360	7	18.106.010	AMD	185	1
11.114.010	AMD	204	1	18.106.020	AMD	185	11
11.114.020	AMD	204	2	18.106.040	AMD	185	2
11.114.090	AMD	204	3	18.106.050	AMD	185	3
11.114.120	AMD	204	4	18.106.070	AMD	185	10
11.114.140	AMD	204	5	18.106.110	AMD	185	4
11.114.180	AMD	204	6	18.106.190	AMD	270	9
11.114.190	AMD	204	7	18.130	ADD	72	1
11.114.200	AMD	204	8	18.130	ADD	99	3,9
13.34	ADD	221	2	18.130.050	AMD	99	4
13.40	ADD	304	2-4	18.130.060	AMD	99	1
			6	18.130.070	AMD	99	2



**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
18.130.080	AMD	99	5	19.146.228	AMD	19	15
18.130.160	AMD	8	104	19.146.235	AMD	19	16
18.130.160	AMD	99	6	19.146.280	AMD	19	17
18.130.175	AMD	99	7	19.220.010	AMD	138	24
18.135	ADD	242	2	19.260.020	AMD	194	1
18.135.040	AMD	242	3	19.260.030	AMD	194	2
18.155.070	AMD	134	1	19.260.040	AMD	194	3
18.155.075	AMD	134	2	19.260.050	AMD	194	4
18.170.020	AMD	173	1	20.01.482	AMD	270	10
18.225.090	AMD	69	1	21.20.320	AMD	220	1
18.235.020	AMD	219	13	23B.06.400	AMD	52	2
19	ADD	65	1-5	23B.08.310	AMD	52	3
19	ADD	195	1-6	23B.12.010	AMD	52	4
19.28.041	AMD	185	5	23B.14	ADD	52	10,11
19.28.041	AMD	224	1	23B.14.010	AMD	52	5
19.28.051	AMD	185	8	23B.14.020	AMD	52	6
19.28.061	AMD	185	9	23B.14.030	AMD	52	7
19.28.131	AMD	185	13	23B.14.050	AMD	52	8
19.28.161	AMD	185	6	23B.14.060	AMD	52	9
19.28.161	AMD	224	2	23B.14.210	AMD	52	12
19.28.191	REMD	185	7	23B.14.220	AMD	52	13
19.28.211	AMD	185	12	23B.14.300	AMD	52	14
19.36.020	AMD	360	14	23B.14.310	AMD	52	15
19.94.175	AMD	358	1	23B.14.320	AMD	52	16
19.94.175	AMD	358	2	23B.14.340	AMD	52	17
19.94.2582	AMD	358	5	23B.14.400	AMD	52	18
19.102.010	REP	65	6	24	ADD	34	1,2
19.102.020	REP	65	6	25.15	ADD	325	1
19.112	ADD	338	2-4	25.15.030	AMD	48	1
			7,9,11	25.15.270	AMD	48	4
			13,14	26.21A.900	AMD	96	1
19.112.010	AMD	338	15	26.33.045	AMD	248	1
19.112.020	AMD	338	8	26.33.400	AMD	248	4
19.112.060	AMD	338	6	26.33.410	REP	248	5
19.138	ADD	250	3	26.44.020	AMD	339	107
19.146	ADD	19	18-22	26.44.020	AMD	339	108
19.146.005	AMD	19	1	26.50.110	AMD	138	25
19.146.010	AMD	19	2	26.50.160	REMD	138	26
19.146.020	AMD	19	3	27.04.045	AMD	199	2
19.146.0201	AMD	19	4	27.12.355	AMD	344	18
19.146.030	AMD	19	5	27.12.370	AMD	344	19
19.146.040	AMD	19	6	27.34.330	REMD	371	231
19.146.060	AMD	19	7	27.34.330	AMD	371	232
19.146.070	AMD	19	8	28A.150.230	AMD	263	201
19.146.200	AMD	19	9	28A.150.260	AMD	263	322
19.146.205	AMD	19	10	28A.150.300	AMD	263	702
19.146.210	AMD	19	11	28A.150.530	AMD	263	326
19.146.215	AMD	19	12	28A.155	ADD	68	2
19.146.220	REMD	19	13	28A.155	ADD	269	1,2
19.146.225	AMD	19	14	28A.155.060	AMD	263	915

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
28A.155.070	AMD	269	3	28A.305.035	AMD	263	103
28A.160.100	AMD	263	907	28A.305.130	AMD	263	102
28A.160.210	AMD	263	906	28A.305.160	AMD	263	701
28A.205.010	AMD	263	408	28A.305.160	RECD	263	708
28A.205.040	AMD	263	412	28A.305.170	AMD	263	406
28A.205.070	AMD	263	409	28A.305.170	RECD	263	419
28A.210.070	AMD	263	908	28A.305.210	AMD	263	601
28A.210.120	AMD	263	909	28A.305.220	AMD	115	6
28A.210.160	AMD	263	910	28A.305.220	AMD	263	401
28A.210.320	AMD	263	911	28A.305.220	RECD	263	418
28A.215.010	AMD	263	410	28A.310.030	AMD	263	603
28A.215.020	AMD	263	411	28A.310.050	AMD	263	604
28A.215.100	RECD	265	601	28A.310.060	AMD	263	605
28A.215.110	AMD	265	210	28A.310.080	AMD	263	602
28A.215.110	RECD	265	601	28A.310.090	AMD	263	606
28A.215.120	AMD	265	211	28A.310.100	AMD	263	607
28A.215.120	RECD	265	601	28A.310.140	AMD	263	608
28A.215.130	RECD	265	601	28A.310.150	AMD	263	609
28A.215.140	AMD	263	413	28A.310.200	AMD	263	610
28A.215.140	RECD	265	601	28A.310.310	AMD	263	611
28A.215.150	RECD	265	601	28A.315.015	AMD	263	504
28A.215.160	RECD	265	601	28A.315.025	AMD	263	505
28A.215.170	RECD	265	601	28A.315.055	AMD	263	506
28A.215.180	RECD	265	601	28A.315.085	AMD	263	507
28A.215.190	RECD	265	601	28A.315.125	AMD	263	508
28A.215.200	RECD	265	601	28A.315.175	AMD	263	501
28A.215.900	RECD	265	601	28A.315.185	AMD	263	509
28A.215.904	RECD	265	601	28A.315.195	AMD	263	502
28A.215.906	RECD	265	601	28A.315.205	AMD	263	503
28A.215.908	RECD	265	601	28A.320.240	AMD	263	914
28A.225.160	AMD	263	703	28A.323.020	AMD	263	612
28A.225.280	AMD	263	903	28A.323.040	AMD	263	613
28A.225.330	AMD	263	805	28A.330.100	REMD	263	417
28A.230	ADD	114	2	28A.335	ADD	35	6
28A.230	ADD	263	418	28A.335.100	AMD	263	912
28A.230.020	AMD	263	414	28A.335.120	AMD	263	913
28A.230.040	AMD	263	415	28A.335.160	AMD	263	323
28A.230.050	AMD	263	416	28A.335.210	AMD	263	327
28A.230.090	AMD	114	3	28A.335.230	AMD	263	328
28A.230.095	AMD	113	2	28A.405	ADD	234	5
28A.230.100	AMD	114	4	28A.405	ADD	263	902
28A.230.100	AMD	263	402	28A.405.110	AMD	263	806
28A.230.130	AMD	263	407	28A.415.010	AMD	263	807
28A.230.170	AMD	263	403	28A.415.020	AMD	263	808
28A.300	ADD	263	419,704	28A.415.024	AMD	263	809
28A.300.040	AMD	263	104	28A.415.025	AMD	263	810
28A.300.050	AMD	263	819	28A.415.105	AMD	263	811
28A.300.130	AMD	116	2	28A.415.125	AMD	263	812
28A.300.150	AMD	263	705	28A.415.130	AMD	263	813
28A.305.011	AMD	263	105	28A.415.145	AMD	263	814

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
28A.500.030	AMD	119	1	28A.600.020	AMD	263	706
28A.500.030	AMD	372	904	28A.600.030	AMD	263	707
28A.505.140	AMD	263	202	28A.600.130	AMD	263	916
28A.525	ADD	263	308	28A.600.200	AMD	263	904
28A.525.020	AMD	263	301	28A.625.360	AMD	263	804
28A.525.030	AMD	263	302	28A.625.370	AMD	263	820
28A.525.050	AMD	263	303	28A.625.380	AMD	263	821
28A.525.055	AMD	263	304	28A.625.390	AMD	263	822
28A.525.070	AMD	263	305	28A.630.400	REMD	263	815
28A.525.080	AMD	263	306	28A.650.015	AMD	263	917
28A.525.090	AMD	263	307	28A.655	ADD	115	1,5
28A.525.120	DECD	263	335	28A.655.061	AMD	115	4
28A.525.122	DECD	263	335	28A.655.200	AMD	117	4
28A.525.124	DECD	263	335	28A.660.020	AMD	263	816
28A.525.126	DECD	263	335	28A.660.040	AMD	263	817
28A.525.128	DECD	263	335	28A.690.020	AMD	263	818
28A.525.130	DECD	263	335	28B	ADD	112	1-4
28A.525.132	DECD	263	335	28B.10	ADD	81	2
28A.525.134	DECD	263	335	28B.10	ADD	180	1,2
28A.525.140	DECD	263	335	28B.10.710	AMD	263	823
28A.525.142	DECD	263	335	28B.15.067	AMD	161	6
28A.525.144	DECD	263	335	28B.15.910	AMD	229	2
28A.525.146	DECD	263	335	28B.20.100	AMD	78	1
28A.525.148	DECD	263	335	28B.30.100	AMD	78	2
28A.525.150	DECD	263	335	28B.35.100	AMD	78	3
28A.525.152	DECD	263	335	28B.35.120	AMD	263	824
28A.525.154	DECD	263	335	28B.40.100	AMD	78	4
28A.525.156	DECD	263	335	28B.40.120	AMD	263	825
28A.525.158	DECD	263	335	28B.45.030	AMD	166	1
28A.525.160	DECD	263	335	28B.50	ADD	112	8
28A.525.162	AMD	263	309	28B.50	ADD	234	6
28A.525.164	AMD	263	310	28B.50	ADD	308	3
28A.525.166	AMD	263	311	28B.50.551	AMD	243	1
28A.525.168	AMD	263	312	28B.85	ADD	234	1
28A.525.170	AMD	263	313	28B.85.020	AMD	234	3
28A.525.172	AMD	263	314	28B.85.040	AMD	234	4
28A.525.174	AMD	263	315	28B.103.010	AMD	71	1
28A.525.176	AMD	263	316	28B.103.020	AMD	71	2
28A.525.178	AMD	263	317	28C.04	ADD	115	2
28A.525.180	AMD	263	318	28C.04	ADD	161	5
28A.525.182	DECD	263	335	29A.04.157	REP	206	9
28A.525.190	AMD	263	319	29A.04.158	REP	344	40
28A.525.200	AMD	263	320	29A.04.311	AMD	344	1
28A.525.216	AMD	263	321	29A.04.321	AMD	344	2
28A.540.050	AMD	263	324	29A.04.330	AMD	344	3
28A.540.070	AMD	263	329	29A.04.530	AMD	206	1
28A.545	ADD	263	325	29A.04.610	REP	206	9
28A.600	ADD	117	2	29A.04.611	AMD	206	2
28A.600	ADD	263	708,905	29A.04.611	AMD	207	1
28A.600.010	AMD	263	901	29A.08	ADD	320	1

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
29A.08.010	AMD	320	2	29A.56.030	AMD	344	15
29A.08.112	AMD	320	3	29A.60.165	AMD	208	1
29A.08.140	AMD	97	1	29A.60.165	AMD	209	4
29A.08.145	AMD	97	2	29A.60.190	REMD	344	16
29A.08.810	AMD	320	4	29A.60.190	AMD	344	17
29A.08.820	AMD	320	5	29A.72.220	REP	206	9
29A.08.830	REP	320	9	30.08	ADD	48	2
29A.08.840	AMD	320	6	31.24	ADD	87	1,4,5,7
29A.08.850	AMD	320	7				9,10
29A.12.080	AMD	207	2				21-27
29A.12.101	AMD	207	3				31,32
29A.20.110	REP	206	9	31.24.010	AMD	87	2
29A.20.121	AMD	344	4	31.24.020	AMD	87	3
29A.20.130	REP	206	9	31.24.030	AMD	87	6
29A.20.200	REP	206	9	31.24.040	REP	87	33
29A.24.040	AMD	344	5	31.24.050	REP	87	33
29A.24.050	AMD	344	6	31.24.060	REP	87	33
29A.24.070	AMD	263	614	31.24.070	AMD	87	8
29A.24.091	AMD	206	3	31.24.080	AMD	87	11
29A.24.101	AMD	206	4	31.24.090	AMD	87	12
29A.24.111	AMD	206	5	31.24.100	AMD	87	13
29A.24.171	AMD	344	7	31.24.110	AMD	87	14
29A.24.181	AMD	344	8	31.24.120	AMD	87	15
29A.24.191	AMD	344	9	31.24.130	AMD	87	16
29A.24.200	REP	206	9	31.24.140	AMD	87	17
29A.24.211	AMD	344	10	31.24.150	AMD	87	18
29A.28.010	REP	206	9	31.24.170	AMD	87	19
29A.28.020	REP	206	9	31.24.180	REP	87	33
29A.28.021	AMD	344	11	31.24.190	AMD	87	20
29A.28.041	AMD	344	12	31.35	ADD	87	28
29A.36.071	AMD	311	9	31.40	ADD	87	29
29A.36.190	REP	206	9	31.40.090	AMD	87	30
29A.40.070	AMD	344	13	32.08	ADD	48	3
29A.40.110	AMD	206	6	34.05.030	AMD	300	4
29A.40.110	AMD	207	4	35.02.086	AMD	344	20
29A.40.140	AMD	320	8	35.06.070	AMD	344	21
29A.40.150	AMD	206	7	35.13.1821	AMD	344	22
29A.44.220	REP	206	9	35.13.480	AMD	344	23
29A.46	ADD	207	7	35.21	ADD	35	10
29A.46.020	AMD	207	5	35.21	ADD	211	1
29A.46.110	AMD	207	6	35.23	ADD	41	1
29A.46.140	REP	206	9	35.27	ADD	41	2
29A.46.150	REP	206	9	35.61.130	AMD	222	1
29A.46.210	REP	206	9	35.61.360	AMD	344	24
29A.46.220	REP	206	9	35.72.020	AMD	88	1
29A.46.230	REP	206	9	35.82	ADD	35	8
29A.46.240	REP	206	9	35.82	ADD	349	12
29A.46.250	REP	206	9	35.91.020	AMD	88	2
29A.48.050	AMD	206	8	35.102	ADD	272	1
29A.52.011	AMD	344	14	35.102	ADD	301	6

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
35.102.040	AMD	301	7				601
35A.14.299	AMD	344	25	39.04	ADD	321	3
35A.14.470	AMD	344	26	39.04.300	AMD	321	1
35A.79	ADD	35	11	39.04.320	AMD	321	2
36.04.150	AMD	146	1	39.10.067	AMD	261	1
36.18.012	AMD	192	1	39.10.115	AMD	261	2
36.18.016	REMD	192	2	39.10.902	AMD	261	3
36.22.140	AMD	280	1	39.12.070	AMD	230	1
36.22.181	AMD	21	1	39.12.080	AMD	230	2
36.24.190	AMD	344	27	39.33	ADD	35	7
36.28A	ADD	40	1	39.34.040	AMD	32	1
36.28A	ADD	102	2,4,5	39.35D.020	AMD	263	330
36.34	ADD	35	4	39.35D.040	AMD	263	331
36.54.050	AMD	332	10	39.35D.060	AMD	263	332
36.54.110	AMD	332	7	40.04	ADD	46	3
36.54.130	AMD	332	9	40.04.035	REP	46	4
36.56.121	AMD	334	29	40.04.040	REP	46	4
36.57A	ADD	332	8	40.06.010	AMD	199	3
36.57A.070	AMD	334	30	40.06.020	AMD	199	4
36.57A.191	AMD	334	9	40.06.030	AMD	199	5
36.70A	ADD	149	2	40.06.040	AMD	199	6
36.70A.130	REMD	285	2	40.06.050	AMD	199	7
36.70A.177	AMD	147	1	41.04	ADD	356	1
36.73.015	AMD	311	24	41.04.007	REMD	252	2
36.73.020	AMD	311	25	41.04.230	AMD	216	1
36.78.121	AMD	334	10	41.04.270	AMD	309	3
36.79.120	AMD	334	11	41.04.278	AMD	309	4
36.79.130	AMD	334	12	41.04.385	AMD	265	201
36.93.030	AMD	344	28	41.04.393	AMD	309	5
36.120	ADD	311	7,29	41.04.810	AMD	54	4
36.120.020	AMD	311	4	41.05	ADD	308	2
36.120.020	AMD	334	13	41.05	ADD	367	1
36.120.030	AMD	311	5	41.05.006	AMD	299	1
36.120.040	AMD	311	6	41.05.013	AMD	307	8
36.120.050	AMD	311	13	41.05.021	AMD	103	2
36.120.070	AMD	311	8	41.05.065	REMD	299	2
36.120.080	AMD	311	10	41.05.075	AMD	103	3
36.120.110	AMD	311	11	41.06	ADD	234	7
38.42	ADD	253	2	41.06	ADD	265	110
38.42.010	AMD	253	1	41.24.010	AMD	26	1
38.42.050	AMD	80	1	41.26	ADD	214	5
38.52	ADD	72	2	41.26.048	AMD	351	1
38.52	ADD	210	2	41.26.100	AMD	350	1
38.52.530	AMD	210	1	41.26.470	AMD	39	1
39	ADD	111	1-6	41.26.510	AMD	345	1
39	ADD	181	101,102	41.32	ADD	189	3,7,11
			201-208	41.32	ADD	214	2
			301,302	41.32	ADD	257	1,2
			402,403	41.32.065	AMD	257	3
			501-505	41.32.4851	AMD	244	1

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
41.32.767	REP	214	7	42.23.030	AMD	121	1
41.32.875	AMD	33	1	42.52	ADD	217	1
41.32.877	REP	214	7	42.52.150	AMD	5	3
41.35	ADD	214	3	42.56	ADD	25	3
41.35.473	REP	214	7	42.56	ADD	209	15,16
41.35.653	REP	214	7	42.56.250	AMD	209	6
41.35.680	AMD	33	2	42.56.270	AMD	171	8
41.37	ADD	214	4	42.56.270	AMD	183	37
41.37.005	AMD	309	1	42.56.270	AMD	209	7
41.37.010	AMD	309	2	42.56.270	AMD	302	12
41.40	ADD	189	2	42.56.270	AMD	338	5
			4-6	42.56.270	AMD	341	6
			8-10	42.56.270	AMD	369	2
			12-16	42.56.300	AMD	86	1
41.40	ADD	214	1	42.56.330	AMD	209	8
41.40.1984	AMD	244	2	42.56.360	AMD	8	112
41.40.713	REP	214	7	42.56.360	AMD	209	9
41.40.820	AMD	33	3	42.56.380	AMD	75	3
41.40.833	REP	214	7	42.56.380	AMD	330	26
41.45	ADD	56	1-3	42.56.400	AMD	8	210
41.45	ADD	189	17-19	42.56.400	AMD	284	17
41.45	ADD	365	2-4	43	ADD	25	13
41.45.020	REMD	365	1	43	ADD	116	3-7
41.45.0631	AMD	94	2	43	ADD	167	101-105
41.45.070	AMD	94	3				201-206
41.56	ADD	54	1				301-307
41.56.030	AMD	54	2				401-406
41.56.113	AMD	54	3	43	ADD	247	1-4
42.12.040	AMD	344	29				6,7
42.17	ADD	315	1	43	ADD	265	101-109
42.17	ADD	348	2,3				301-315
42.17.030	AMD	240	1				501
42.17.080	AMD	344	30	43	ADD	317	3-5
42.17.093	AMD	348	6	43.01.047	AMD	54	5
42.17.130	AMD	215	2	43.06	ADD	45	1
42.17.2401	AMD	265	113	43.09	ADD	1	2,5
42.17.253	RECD	209	16	43.10.101	AMD	334	14
42.17.310	REMD	8	111	43.17.010	AMD	265	111
42.17.310	REMD	75	2	43.17.020	REMD	265	112
42.17.310	REMD	302	11	43.19	ADD	35	5
42.17.31907	AMD	330	25	43.19	ADD	183	36
42.17.31922	RECD	209	16	43.19	ADD	338	12
42.17.31923	RECD	209	16	43.19.1906	AMD	363	1
42.17.390	AMD	315	2	43.19.1908	AMD	363	2
42.17.395	AMD	315	3	43.19.1911	AMD	363	3
42.17.405	AMD	240	2	43.19.642	AMD	338	10
42.17.640	AMD	348	1	43.20	ADD	239	1
42.17.700	AMD	348	4				3-6
42.17.710	AMD	344	31	43.20.025	AMD	239	2
42.17.710	AMD	348	5	43.20.030	REMD	238	1

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
43.23.033	AMD	330	27	43.88.160	AMD	1	6
43.43	ADD	99	8	43.92	ADD	340	1,4
43.43	ADD	102	7	43.92.010	AMD	340	2
43.43	ADD	214	6	43.92.020	AMD	340	3
43.43.270	AMD	94	1	43.92.040	AMD	340	5
43.43.540	AMD	136	1	43.92.060	AMD	340	6
43.43.700	AMD	294	1	43.92.070	AMD	340	7
43.43.705	AMD	294	2	43.92.080	AMD	340	8
43.43.715	AMD	294	3	43.99C	ADD	35	2
43.43.725	AMD	294	4	43.99N.060	AMD	371	227
43.43.730	AMD	294	5	43.101	ADD	22	2
43.43.735	AMD	294	6	43.101.085	AMD	22	1
43.43.740	AMD	294	7	43.101.380	AMD	22	3
43.43.810	AMD	294	8	43.103	ADD	102	3
43.43.832	AMD	263	826	43.105.330	AMD	76	2
43.43.840	AMD	263	827	43.110	ADD	328	1,2
43.43.845	REMD	263	828	43.131	ADD	343	10,11
43.52	ADD	176	1	43.135	ADD	304	5
43.60A	ADD	343	1	43.135.025	AMD	56	7
			3-8	43.135.035	AMD	56	8
43.60A.010	AMD	343	2	43.136	ADD	197	1-7
43.63A	ADD	91	2,3	43.136.010	REP	197	8
43.63A.066	AMD	265	212	43.136.020	REP	197	8
43.63A.125	AMD	371	233	43.136.030	REP	197	8
43.63A.135	AMD	371	234	43.136.040	REP	197	8
43.63A.655	AMD	349	8	43.136.050	REP	197	8
43.63A.655	RECD	349	13	43.136.070	REP	197	8
43.63A.750	AMD	371	235	43.180	ADD	252	1
43.63B.140	AMD	270	11	43.180.160	AMD	262	1
43.70	ADD	55	1	43.185	ADD	349	1,3
43.70	ADD	236	2	43.185.050	REMD	371	236
43.70	ADD	237	2	43.185A	ADD	349	4,11
43.70.075	AMD	8	109	43.185C	ADD	349	7,13
43.70.110	AMD	72	3	43.185C.010	AMD	349	6
43.70.250	AMD	72	4	43.320.140	AMD	21	2
43.70.510	AMD	8	113	43.320.1401	AMD	21	3
43.79	ADD	120	1	43.330	ADD	314	2
43.79A.040	REMD	120	2	43.330.090	AMD	105	1
43.79A.040	REMD	311	21	43.340	ADD	246	2
43.83D	ADD	35	3	43.342.010	RECD	317	5
43.84.092	REMD	6	8	43.342.020	RECD	317	5
43.84.092	REMD	56	9	44.04.270	RECD	317	5
43.84.092	REMD	56	10	44.20.030	AMD	46	1
43.84.092	REMD	171	9	44.20.050	AMD	46	2
43.84.092	AMD	171	10	44.28	ADD	239	7
43.84.092	REMD	311	22	44.28.801	AMD	371	229
43.84.092	REMD	311	23	44.52.010	RECD	317	5
43.84.092	REMD	337	10	44.52.020	RECD	317	5
43.84.092	REMD	337	11	44.52.030	RECD	317	5
43.88.030	REMD	334	43	44.52.040	RECD	317	5

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
44.52.050	RECD	317	5	46.44.042	AMD	334	15
44.52.060	RECD	317	5	46.44.080	AMD	334	16
44.52.070	RECD	317	5	46.44.090	AMD	334	17
44.52.900	RECD	317	5	46.44.092	AMD	334	18
44.52.901	RECD	317	5	46.44.096	AMD	334	19
44.75.010	REP	334	51	46.44.105	AMD	50	4
44.75.020	REP	334	51	46.44.105	AMD	297	1
44.75.030	REP	334	51	46.52.101	AMD	327	6
44.75.040	REP	334	51	46.55.130	AMD	28	1
44.75.050	REP	334	51	46.61.021	AMD	270	1
44.75.060	REP	334	51	46.61.450	AMD	334	20
44.75.070	REP	334	51	46.61.502	AMD	73	1
44.75.080	REP	334	51	46.61.504	AMD	73	2
44.75.090	REP	334	51	46.61.5055	AMD	73	3
44.75.100	REP	334	51	46.61.5151	AMD	73	18
44.75.110	REP	334	51	46.61.5152	AMD	73	17
44.75.120	REP	334	51	46.61.524	AMD	73	16
44.75.800	REP	334	51	46.63.060	AMD	270	2
44.75.900	REP	334	51	46.63.070	AMD	327	7
44.75.901	REP	334	51	46.64.015	AMD	270	3
46.04.274	AMD	98	1	46.64.025	AMD	270	4
46.09.115	AMD	212	2	46.68	ADD	337	6-8
46.09.120	AMD	212	3	46.68.035	AMD	337	1
46.09.180	AMD	212	4	46.68.080	AMD	337	12
46.12.101	REMD	291	2	46.68.113	AMD	334	21
46.12.102	AMD	291	3	46.68.135	AMD	337	4
46.16.010	REMD	212	1	46.68.290	AMD	337	5
46.16.086	AMD	337	2	46.70	ADD	364	2
46.16.162	AMD	337	3	46.70.011	AMD	364	1
46.16.240	REMD	326	1	46.70.180	AMD	289	1
46.16.381	AMD	357	2	46.82	ADD	219	1
46.17.010	AMD	337	9	46.82.280	AMD	219	2
46.20.037	AMD	292	1	46.82.300	AMD	219	3
46.20.055	AMD	219	14	46.82.310	AMD	219	4
46.20.130	AMD	190	1	46.82.320	AMD	219	5
46.20.270	AMD	327	1	46.82.325	AMD	219	6
46.20.311	AMD	73	15	46.82.330	AMD	219	7
46.25.010	AMD	50	1	46.82.340	AMD	219	8
46.25.010	AMD	327	2	46.82.350	AMD	219	9
46.25.050	AMD	327	3	46.82.360	AMD	219	10
46.25.090	AMD	327	4	46.82.370	AMD	219	11
46.25.120	AMD	327	5	46.82.420	AMD	219	12
46.32.005	AMD	50	2	47.01	ADD	311	26-28
46.37.010	AMD	212	5	47.01	ADD	332	4,6
46.37.010	AMD	306	1	47.01	ADD	334	44
46.37.070	AMD	306	2	47.01.051	AMD	334	1
46.37.194	AMD	27	1	47.01.061	AMD	334	2
46.37.200	AMD	306	3	47.01.071	AMD	334	3
46.37.390	AMD	306	4	47.01.075	AMD	334	4
46.37.395	AMD	50	3	47.01.091	AMD	334	5



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RCW		CH.	SEC.	RCW		CH.	SEC.
47.01.101	AMD	334	6	47.64.220	AMD	164	9
47.01.260	AMD	368	2	47.64.220	AMD	164	10
47.01.280	AMD	334	7	47.64.230	AMD	164	11
47.02.120	AMD	334	39	47.64.240	REP	164	19
47.02.140	AMD	334	40	47.64.270	AMD	164	17
47.04	ADD	324	1	47.64.280	AMD	164	18
47.05	ADD	83	1	48	ADD	8	201-208
47.05.021	AMD	334	8	48	ADD	36	1-15
47.05.030	AMD	334	45				18
47.05.035	AMD	334	46	48	ADD	284	1-13
47.05.051	AMD	334	47				19
47.10.819	AMD	334	37	48.01	ADD	61	1
47.10.820	AMD	334	38	48.05	ADD	25	1,2
47.10.834	AMD	334	35	48.05.250	AMD	25	5
47.10.835	AMD	334	36	48.05.440	AMD	25	6
47.10.843	AMD	334	33	48.05.490	REP	25	11
47.10.844	AMD	334	34	48.14.080	AMD	278	2
47.10.861	AMD	334	31	48.17	ADD	25	15
47.10.862	AMD	334	32	48.18	ADD	8	211
47.12.063	AMD	17	2	48.18	ADD	145	2
47.17.132	AMD	334	41	48.18.100	AMD	8	214
47.20.785	AMD	37	1	48.18.103	AMD	8	215
47.24.010	AMD	334	42	48.18.290	AMD	8	212
47.28.010	AMD	334	22	48.18.2901	AMD	8	213
47.28.170	AMD	334	23	48.19.043	AMD	8	216
47.29	ADD	334	49,50	48.19.060	AMD	8	217
47.29.010	AMD	334	48	48.20	ADD	100	2
47.29.170	AMD	370	604	48.20	ADD	367	2
47.32.120	AMD	324	2	48.20.028	AMD	100	1
47.36.200	REMD	331	1	48.21	ADD	367	3
47.38.060	AMD	334	24	48.21.241	AMD	74	1
47.52.133	AMD	334	25	48.22.030	AMD	25	17
47.52.145	AMD	334	26	48.22.030	AMD	110	1
47.52.210	AMD	334	27	48.22.030	AMD	187	1
47.56	ADD	311	20	48.24.030	REMD	25	14
47.56.076	AMD	311	19	48.30.300	AMD	4	18
47.56.165	AMD	17	1	48.31.405	AMD	209	5
47.60	ADD	332	3,5	48.43	ADD	104	2
47.60.645	AMD	332	1	48.43.005	AMD	25	16
47.64	ADD	164	2	48.43.045	AMD	25	7
			12-15	48.43.365	REP	25	11
47.64.011	AMD	164	1	48.44	ADD	100	4
47.64.120	AMD	164	3	48.44	ADD	367	4
47.64.130	AMD	164	4	48.44.022	AMD	100	3
47.64.140	AMD	164	5	48.44.095	AMD	25	8
47.64.170	AMD	164	6	48.44.341	AMD	74	2
47.64.180	REP	164	19	48.46	ADD	100	6
47.64.190	REP	164	19	48.46	ADD	367	5
47.64.200	AMD	164	7	48.46.064	AMD	100	5
47.64.210	AMD	164	8	48.46.080	AMD	25	9

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
48.46.291	AMD	74	3	49.17	ADD	31	3
48.48.030	RECD	25	13	49.17.070	AMD	31	2
48.48.040	RECD	25	13	49.48	ADD	89	1-6
48.48.045	RECD	25	13	49.60.010	AMD	4	1
48.48.050	RECD	25	13	49.60.020	AMD	4	2
48.48.060	RECD	25	13	49.60.030	AMD	4	3
48.48.065	RECD	25	13	49.60.040	AMD	4	4
48.48.070	RECD	25	13	49.60.120	AMD	4	5
48.48.080	RECD	25	13	49.60.130	AMD	4	6
48.48.090	RECD	25	13	49.60.175	AMD	4	7
48.48.110	RECD	25	13	49.60.176	AMD	4	8
48.48.140	RECD	25	13	49.60.178	AMD	4	9
48.48.150	RECD	25	13	49.60.180	AMD	4	10
48.48.160	RECD	25	13	49.60.190	AMD	4	11
48.50.070	AMD	284	14	49.60.200	AMD	4	12
48.50.075	AMD	284	15	49.60.215	AMD	4	13
48.96.005	REP	274	23	49.60.222	REMD	4	14
48.96.010	REP	274	23	49.60.223	AMD	4	15
48.96.020	REP	274	23	49.60.224	AMD	4	16
48.96.025	REP	274	23	49.60.225	AMD	4	17
48.96.030	REP	274	23	49.60.227	AMD	58	3
48.96.040	REP	274	23	49.78	ADD	59	3-22
48.96.045	REP	274	23	49.78.005	REP	59	23
48.96.047	REP	274	23	49.78.010	AMD	59	1
48.96.050	REP	274	23	49.78.020	AMD	59	2
48.96.060	REP	274	23	49.78.030	REP	59	23
48.96.900	REP	274	23	49.78.040	REP	59	23
48.96.901	REP	274	23	49.78.050	REP	59	23
48.110	ADD	274	17-20	49.78.060	REP	59	23
48.110.010	AMD	274	1	49.78.070	REP	59	23
48.110.015	AMD	36	16	49.78.080	REP	59	23
48.110.015	AMD	274	2	49.78.100	REP	59	23
48.110.020	AMD	36	17	49.78.110	REP	59	23
48.110.020	AMD	274	3	49.78.120	REP	59	23
48.110.030	AMD	274	4	49.78.130	REP	59	23
48.110.040	AMD	274	5	49.78.140	REP	59	23
48.110.050	AMD	274	6	49.78.150	REP	59	23
48.110.060	AMD	274	7	49.78.160	REP	59	23
48.110.070	AMD	274	8	49.78.170	REP	59	23
48.110.080	AMD	274	9	49.78.180	REP	59	23
48.110.090	AMD	274	10	49.78.190	REP	59	23
48.110.100	AMD	274	11	49.78.200	REP	59	23
48.110.110	AMD	274	12	50.04.206	REEN	13	22
48.110.120	AMD	274	13	50.04.293	REEN	13	8
48.110.130	AMD	274	14	50.04.294	REEN	13	9
48.110.140	AMD	274	15	50.04.335	REEN	13	17
48.110.900	AMD	274	16	50.12.220	AMD	47	3
48.125	ADD	367	6	50.16.010	REEN	13	18
48.125.090	AMD	25	10	50.16.015	REEN	13	19
49.04	ADD	161	1-4	50.16.030	AMD	13	7

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW	CH.	SEC.	RCW	CH.	SEC.		
50.20.010	REEN	13	10	60.10.040	AMD	283	4
50.20.050	REEN	12	1	60.70.060	AMD	192	4
50.20.050	AMD	13	2	63.14	ADD	288	1
50.20.060	REEN	13	11	64.06.022	AMD	77	1
50.20.065	REEN	13	12	64.38	ADD	58	2
50.20.066	REEN	13	13	64.44	ADD	339	208
50.20.100	REEN	13	14	64.44.010	AMD	339	201
50.20.119	REEN	13	15	64.44.020	AMD	339	202
50.20.120	AMD	13	1	64.44.030	AMD	339	203
50.20.190	REEN	13	21	64.44.040	AMD	339	204
50.20.240	REEN	13	16	64.44.050	AMD	339	205
50.24.014	REEN	13	20	64.44.060	AMD	339	206
50.29	ADD	47	1	64.44.070	AMD	339	207
50.29.021	AMD	13	6	66.04.010	AMD	101	1
50.29.025	AMD	13	4	66.04.010	AMD	225	1
50.29.041	AMD	13	5	66.12	ADD	330	23
50.29.062	AMD	47	2	66.12.190	REP	49	10
51.16	ADD	165	4	66.12.200	REP	49	10
51.28.015	AMD	254	1	66.12.210	REP	49	10
51.32.067	AMD	154	1	66.12.220	REP	49	10
51.32.225	AMD	163	1	66.20	ADD	49	1-7
52.02.080	AMD	344	32	66.24.010	AMD	359	1
52.04.056	AMD	344	33	66.24.170	AMD	302	1
52.04.071	AMD	344	34	66.24.206	AMD	302	4
52.26	ADD	200	8,9	66.24.210	AMD	49	8
52.26.020	AMD	200	1	66.24.210	AMD	101	4
52.26.040	AMD	200	2	66.24.210	AMD	302	5
52.26.050	AMD	200	3	66.24.240	AMD	44	1
52.26.060	AMD	200	4	66.24.240	AMD	302	2
52.26.070	AMD	200	5	66.24.244	REMD	44	2
52.26.090	AMD	200	6	66.24.244	REMD	302	3
52.26.100	AMD	200	7	66.24.270	AMD	302	6
52.26.130	AMD	200	10	66.24.290	AMD	302	7
52.26.140	AMD	200	11	66.24.320	AMD	101	2
52.26.220	AMD	200	12	66.24.320	AMD	362	1
52.30	ADD	211	2	66.24.420	AMD	85	1
52.30.020	AMD	25	12	66.24.420	AMD	101	3
53.04.110	AMD	344	35	66.28.010	REMD	43	1
54.08.010	AMD	344	36	66.28.010	REMD	92	1
54.08.070	AMD	344	37	66.28.010	REMD	330	28
57.04.050	AMD	344	38	66.28.070	REMD	302	8
57.22.020	AMD	88	3	66.28.180	REMD	302	9
59.18.365	AMD	51	1	66.28.180	AMD	302	10
59.18.375	AMD	51	2	66.44.800	AMD	330	22
59.18.575	AMD	138	27	67.16.101	AMD	174	2
59.20.060	AMD	296	2	67.16.280	AMD	174	1
59.21.030	AMD	296	1	67.70.040	AMD	290	3
60.04.081	AMD	192	3	68.50.320	AMD	102	6
60.08	ADD	283	1,2	68.50.320	AMD	235	4
60.10.030	AMD	283	3	68.52.210	AMD	335	1

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
69.41.010	REMD	8	115	70.155.060	REP	14	8
69.41.190	AMD	233	1	70.155.090	AMD	14	4
70	ADD	8	105-108	70.155.100	AMD	14	5
			110	70.160	ADD	2	1,6
70	ADD	18	1-9	70.160.010	REP	2	7
70	ADD	63	1-7	70.160.020	AMD	2	2
70	ADD	183	1-25	70.160.030	AMD	2	3
			27-35	70.160.040	REP	2	7
70	ADD	255	1-9	70.160.050	AMD	2	4
			11	70.160.070	AMD	2	5
70.02.010	AMD	235	2	70.160.900	REP	2	7
70.02.050	AMD	235	3	71.05	ADD	333	301
70.14	ADD	307	1-5	71.05.230	AMD	333	302
			7,9	71.05.300	AMD	333	303
70.41	ADD	60	2	71.05.320	AMD	333	304
70.41	ADD	165	2	71.05.550	REP	333	401
70.44	ADD	35	9	71.09.020	REMD	303	10
70.44.040	AMD	322	1	71.09.060	AMD	303	11
70.44.235	AMD	344	39	71.09.098	AMD	282	1
70.47	ADD	264	1	71.24	ADD	333	103
70.47	ADD	367	7	71.24.016	AMD	333	102
70.47.060	AMD	343	9	71.24.025	REMD	333	104
70.94	ADD	329	3,4	71.24.035	REMD	333	201
70.94.100	AMD	227	1	71.24.045	AMD	333	105
70.94.110	AMD	227	2	71.24.300	AMD	333	106
70.94.524	AMD	329	1	71.24.310	AMD	333	107
70.94.527	AMD	329	2	71.24.320	AMD	333	202
70.94.531	AMD	329	5	71.24.330	AMD	333	203
70.94.534	AMD	329	6	71.32.080	AMD	108	5
70.94.537	AMD	329	7	71.34.020	AMD	93	2
70.94.541	AMD	329	8	71.34.500	AMD	93	3
70.94.544	AMD	329	9	71.34.530	AMD	93	4
70.94.547	AMD	329	10	71A.12	ADD	303	2-9
70.94.551	AMD	329	11	72.09	ADD	339	102
70.95L.005	AMD	223	1	72.23	ADD	165	3
70.95L.020	AMD	223	2	72.23.025	AMD	333	204
70.95M	ADD	231	2	72.40.028	AMD	263	829
70.96A	ADD	339	101	73.04.135	AMD	372	905
70.122	ADD	108	2,3	74.04	ADD	95	2
70.122.040	AMD	108	4	74.04.060	AMD	259	5
70.122.051	AMD	108	6	74.08A.250	AMD	107	2
70.123	ADD	259	4	74.08A.260	AMD	107	3
70.123.040	AMD	259	3	74.08A.340	AMD	265	209
70.128.120	AMD	249	1	74.09	ADD	264	2
70.148.020	AMD	276	1	74.09	ADD	367	8
70.148.050	AMD	276	2	74.09.055	AMD	24	1
70.148.900	AMD	276	3	74.12.340	AMD	265	208
70.149.900	AMD	276	4	74.13	ADD	221	4
70.155.010	AMD	14	2	74.13	ADD	353	2,3
70.155.050	AMD	14	3	74.13.031	AMD	221	3

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
74.13.031	AMD	266	1	77.60.070	AMD	144	1
74.13.085	AMD	265	202	77.65.150	AMD	186	1
74.13.0902	AMD	265	203	77.70.350	AMD	159	1
74.13.0903	AMD	265	204	77.70.430	AMD	143	1
74.13.097	RECD	265	601	78.44	ADD	341	4,5
74.13.098	AMD	265	205	78.44.045	AMD	341	2
74.13.098	RECD	265	601	78.44.085	AMD	341	1
74.13.099	AMD	265	206	78.44.087	AMD	341	3
74.13.099	RECD	265	601	79.15.050	AMD	42	1
74.15	ADD	54	6	79.15.080	AMD	42	2
74.15.020	REMD	54	7	79.17.100	AMD	263	333
74.15.020	REMD	90	1	79.17.120	AMD	263	334
74.15.020	REMD	265	401	79.100	ADD	153	1,5
74.15.030	AMD	54	8	79.100.010	AMD	153	2
74.15.030	AMD	265	402	79.100.040	AMD	153	3
74.15.063	RECD	265	601	79.100.060	AMD	153	4
74.15.100	AMD	265	403	79.100.090	REP	153	7
74.15.130	AMD	265	404	79.100.100	AMD	153	6
74.15.190	AMD	90	2	79A.05.070	AMD	141	1
74.15.310	AMD	209	10	79A.05.115	AMD	160	1
74.15.310	RECD	265	601	79A.05.120	AMD	160	2
74.15.320	AMD	209	11	79A.05.125	AMD	160	3
74.15.320	RECD	265	601	79A.05.130	AMD	160	4
74.15.330	AMD	209	12	79A.25	ADD	152	1-8
74.15.330	RECD	265	601	79A.25.010	AMD	152	9
74.15.340	RECD	265	601	79A.60	ADD	140	1
74.15.350	AMD	265	207	79A.60.610	AMD	140	4
74.15.350	RECD	265	601	80.01	ADD	346	3
74.34.020	AMD	339	109	80.01.010	AMD	346	1
74.39A	ADD	9	1	80.01.030	AMD	346	2
74.39A	ADD	260	1	80.01.050	AMD	346	4
74.39A.270	AMD	106	1	80.01.060	AMD	346	5
74.42.640	AMD	209	13	80.01.080	AMD	3	2
74.46.020	AMD	258	1	80.36	ADD	347	5,6
74.46.091	REP	241	1	80.36.100	AMD	347	1
74.46.431	AMD	258	2	80.36.110	AMD	347	2
74.46.433	AMD	258	3	80.36.320	AMD	347	3
74.46.496	AMD	258	4	80.36.330	AMD	347	4
74.46.501	AMD	258	5	80.50	ADD	196	3
74.46.506	AMD	258	6	80.50.020	AMD	196	1
74.46.521	AMD	258	7	80.50.020	AMD	205	1
74.46.535	REP	241	1	80.50.060	AMD	196	4
76.09	ADD	300	3	80.50.071	AMD	196	5
77.12.264	AMD	39	2	80.50.075	AMD	205	2
77.15.400	AMD	148	1	80.50.090	AMD	196	6
77.15.425	AMD	148	2	80.50.090	AMD	205	3
77.32.010	AMD	57	1	80.60.010	AMD	201	1
77.32.155	AMD	23	1	80.60.020	AMD	201	2
77.32.460	AMD	15	1	80.60.030	AMD	201	3
77.32.550	AMD	16	1	80.60.040	AMD	201	4

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW		CH.	SEC.	RCW		CH.	SEC.
81.48.030	AMD	70	1	82.12	ADD	7	2
81.48.040	AMD	70	2	82.12	ADD	11	1
81.84.020	REMD	332	11	82.12	ADD	84	4
81.100.060	AMD	311	15	82.12	ADD	172	2
81.100.060	AMD	318	2	82.12	ADD	177	2
81.100.080	AMD	311	14	82.12	ADD	218	2
81.112.030	AMD	311	12	82.12	ADD	323	4,6
81.112.086	AMD	334	28	82.12.010	AMD	301	3
81.112.230	AMD	270	12	82.12.022	AMD	182	5
82	ADD	178	1-7	82.12.805	AMD	182	4
82.02	ADD	301	8	82.12.820	AMD	354	13
82.02.020	AMD	149	3	82.12.890	AMD	151	3
82.04	ADD	84	2	82.12.900	AMD	151	5
82.04	ADD	112	5,6	82.14	ADD	111	7,8
82.04	ADD	165	5	82.14	ADD	181	401
82.04	ADD	177	3	82.14	ADD	361	1
82.04	ADD	245	1	82.14.0455	AMD	311	16
82.04	ADD	247	5	82.14.390	AMD	298	1
82.04	ADD	300	2	82.14.430	AMD	311	17
82.04	ADD	301	1	82.16.0497	AMD	213	1
82.04	ADD	310	1	82.16.050	AMD	336	1
82.04	ADD	323	2	82.23A.902	AMD	276	5
82.04	ADD	354	1,2	82.23B.020	AMD	256	2
82.04.230	AMD	300	5	82.24.120	AMD	14	6
82.04.250	AMD	177	5	82.24.230	AMD	14	7
82.04.260	REMD	300	1	82.24.270	REP	14	8
82.04.260	REMD	354	4	82.27.060	AMD	256	3
82.04.280	AMD	300	6	82.32	ADD	84	5
82.04.280	AMD	300	7	82.32	ADD	111	9
82.04.2909	AMD	182	1	82.32	ADD	177	4,6
82.04.4266	AMD	354	3	82.32	ADD	178	8
82.04.440	AMD	84	6	82.32	ADD	300	9
82.04.440	AMD	300	8	82.32	ADD	301	4
82.04.4463	AMD	177	10	82.32.045	AMD	256	1
82.04.4481	AMD	182	2	82.32.085	AMD	256	4
82.08	ADD	7	1	82.32.090	AMD	256	6
82.08	ADD	84	3	82.32.330	REMD	177	7
82.08	ADD	172	1	82.32.570	AMD	182	6
82.08	ADD	177	1	82.32.590	AMD	84	7
82.08	ADD	218	1	82.32.590	AMD	112	7
82.08	ADD	323	3,5	82.32.590	AMD	177	8
82.08.010	AMD	301	2	82.32.590	AMD	300	10
82.08.020	AMD	1	3	82.32.590	AMD	354	17
82.08.805	AMD	182	3	82.32.600	AMD	84	8
82.08.820	AMD	354	10	82.32.600	AMD	177	9
82.08.820	AMD	354	11	82.32.600	AMD	178	9
82.08.820	AMD	354	12	82.32.600	AMD	300	11
82.08.890	AMD	151	2	82.32.600	AMD	354	16
82.08.900	AMD	151	4	82.32.610	AMD	354	5
82.12	ADD	1	4	82.44	ADD	318	1,9

**RCW SECTIONS AFFECTED BY 2006 STATUTES**

RCW	CH.	SEC.	RCW	CH.	SEC.		
82.44.022	REP	318	10	84.36.810	AMD	305	4
82.44.023	REP	318	10	84.38.020	AMD	62	2
82.44.025	REP	318	10	84.38.030	AMD	62	3
82.44.060	AMD	318	3	84.38.100	AMD	275	1
82.44.065	AMD	318	5	84.52.0531	AMD	119	2
82.44.080	REP	318	10	84.55.010	AMD	184	1
82.44.090	AMD	318	6	84.55.015	AMD	184	2
82.44.100	AMD	318	7	84.55.020	AMD	184	3
82.44.120	AMD	318	8	84.55.030	AMD	184	4
82.44.130	REP	318	10	84.55.080	AMD	184	5
82.44.155	REP	318	10	84.55.120	AMD	184	6
82.44.157	REP	318	10	84.56	ADD	286	1
82.44.160	REP	318	10	85.07.170	AMD	368	1
82.44.170	REP	318	10	88.02	ADD	140	2,3
82.45.180	REMD	312	1	88.02.020	AMD	29	1
82.45.210	AMD	312	2	88.02.090	AMD	29	2
82.60.020	AMD	142	1	88.02.110	AMD	29	3
82.71.010	REP	241	1	88.16.035	AMD	53	1
82.71.020	REP	241	1	88.46	ADD	316	1-4
82.71.030	REP	241	1	89.08	ADD	369	1
82.74.010	AMD	354	6	90	ADD	6	1-6
82.74.030	AMD	354	7	90.44	ADD	168	2
82.74.040	AMD	354	8	90.46	ADD	279	1
82.74.050	AMD	354	9	90.46.010	AMD	279	4
82.80.050	AMD	301	5	90.46.030	AMD	279	5
82.80.120	AMD	311	18	90.46.040	AMD	279	6
82.80.130	AMD	318	4	90.46.042	AMD	279	7
84.09.037	AMD	263	615	90.46.044	AMD	279	8
84.36.030	AMD	305	1	90.46.050	AMD	279	2
84.36.031	AMD	305	2	90.46.080	AMD	279	9
84.36.037	REMD	305	3	90.46.090	AMD	279	10
84.36.050	AMD	226	2	90.46.100	AMD	279	11
84.36.110	AMD	281	2	90.48	ADD	18	10
84.36.383	AMD	62	1	90.56.120	AMD	372	907
84.36.805	AMD	226	3	90.64.190	AMD	209	14
84.36.805	AMD	319	1	90.88	ADD	366	1





**UNCODIFIED SESSION LAW SECTIONS AFFECTED BY 2006 STATUTES**

LAWS 1997			LAWS 2006		LAWS 2005			LAWS 2006	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
8	3	REP	276	6	313	212	AMD	370	213
LAWS 1998			LAWS 2006		313	213	AMD	370	214
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	313	214	AMD	370	215
245	178	REP	276	6	313	215	AMD	370	216
LAWS 2000			LAWS 2006		313	216	AMD	370	217
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	313	217	AMD	370	218
16	4	REP	276	6	313	218	AMD	370	219
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313		ADD	370	105	313	308	AMD	370	307
313		ADD	370	209	313	309	AMD	370	308
313		ADD	370	601	313	310	AMD	370	309
313		ADD	370	101	313	401	AMD	370	401
313	1	AMD	370	1	313	402	AMD	370	402
313	102	AMD	370	102	313	403	AMD	370	403
313	104	AMD	370	103	313	404	AMD	370	404
313	105	AMD	370	104	313	405	AMD	370	405
313	106	AMD	370	106	313	406	AMD	370	406
313	201	AMD	370	201	313	501	AMD	370	501
313	202	AMD	370	202	313	602	REP	370	602
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313	206	AMD	370	206	436	6	REP	131	2
313	207	AMD	370	207	452	1	REEN	293	1
313	208	AMD	370	208	474	1	AMD	251	1
313	209	AMD	370	210	474	2	AMD	251	2
313	210	AMD	370	211	474	3	AMD	251	3
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					488		ADD	371	228
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488		ADD	371	172	488	138	AMD	371	107
488		ADD	371	155	488	142	AMD	371	110
488		ADD	371	153	488	152	AMD	371	112
488		ADD	371	143	488	156	AMD	371	113
488		ADD	371	151	488	161	AMD	371	114
488		ADD	371	148	488	201	AMD	371	118
488		ADD	371	179	488	206	AMD	371	119
488		ADD	371	204	488	238	AMD	371	122
488		ADD	371	141	488	252	AMD	371	124
488		ADD	371	142	488	255	AMD	371	125
488		ADD	371	154	488	264	AMD	371	126
488		ADD	371	183	488	287	AMD	371	130
488		ADD	371	191	488	323	AMD	371	131
488		ADD	371	120	488	324	AMD	371	132
488		ADD	371	140	488	325	AMD	371	133
488		ADD	371	190	488	327	AMD	371	134
488		ADD	371	192	488	329	AMD	371	135
488		ADD	371	188	488	330	AMD	169	1
488		ADD	371	186	488	330	AMD	371	136
488		ADD	371	207	488	332	AMD	6	7
488		ADD	371	208	488	340	AMD	371	144
488		ADD	371	219	488	341	AMD	371	145
488		ADD	371	182	488	342	AMD	371	146
488		ADD	371	213	488	346	AMD	371	147
488		ADD	371	181	488	360	AMD	371	149
488		ADD	371	216	488	365	AMD	371	150
488		ADD	371	217	488	368	AMD	371	156
488		ADD	371	218	488	369	AMD	371	157
488		ADD	371	206	488	370	AMD	371	158
488		ADD	371	109	488	372	AMD	371	159
488		ADD	371	121	488	376	AMD	371	160
488		ADD	371	203	488	382	AMD	371	161
488		ADD	371	123	488	385	AMD	371	162
488		ADD	371	117	488	386	AMD	371	163
488		ADD	371	139	488	387	AMD	371	164
488		ADD	371	129	488	390	AMD	371	165
488		ADD	371	128	488	391	AMD	371	166
488		ADD	371	127	488	392	AMD	371	167
488		ADD	371	189	488	395	AMD	371	168
488		ADD	371	111	488	398	AMD	371	169
488		ADD	371	115	488	401	AMD	371	170
488		ADD	371	108	488	402	AMD	371	171
488		ADD	371	102	488	414	AMD	371	173
488		ADD	371	101	488	425	AMD	371	174
488		ADD	371	137	488	427	AMD	371	175
488		ADD	371	138	488	443	AMD	371	184
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488	605	AMD	371	194	518	120	AMD	372	119
488	607	AMD	371	196	518	121	AMD	372	120
488	609	AMD	371	197	518	122	AMD	372	121
488	610	AMD	371	198	518	123	AMD	372	122
488	612	AMD	371	200	518	124	AMD	372	123
488	613	AMD	371	201	518	125	AMD	372	124
488	632	AMD	371	202	518	126	AMD	372	125
488	650	AMD	371	205	518	127	AMD	372	126
488	696	AMD	371	209	518	128	AMD	372	127
488	714	AMD	371	210	518	129	AMD	372	128
488	733	AMD	371	212	518	130	AMD	372	129
488	777	AMD	371	214	518	131	AMD	372	130
488	795	AMD	371	215	518	132	AMD	372	131
488	905	AMD	371	220	518	133	AMD	372	132
488	909	AMD	371	222	518	134	AMD	372	133
488	927	AMD	371	237	518	135	AMD	372	134
518		ADD	372	719	518	136	AMD	372	135
518		ADD	372	515	518	137	AMD	372	136
518		ADD	372	712	518	138	AMD	372	137
518		ADD	372	709	518	139	AMD	372	138
518		ADD	372	707	518	141	AMD	372	140
518		ADD	372	706	518	142	AMD	372	141
518		ADD	372	517	518	143	AMD	372	142
518		ADD	372	713	518	144	AMD	372	143
518		ADD	372	721	518	145	AMD	372	144
518		ADD	372	518	518	146	AMD	372	145
518		ADD	372	714	518	147	AMD	372	146
518		ADD	372	720	518	148	AMD	372	147
518		ADD	3	1	518	149	AMD	372	148
518		ADD	372	716	518	150	AMD	372	149
518		ADD	372	715	518	151	AMD	372	150
518		ADD	372	902	518	152	AMD	372	151
518	101	AMD	372	101	518	153	AMD	372	152
518	102	AMD	372	102	518	154	AMD	372	153
518	103	AMD	372	103	518	155	AMD	372	154
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518	105	AMD	372	107	518	202	AMD	372	202
518	106	AMD	372	105	518	203	AMD	372	203
518	107	AMD	372	106	518	204	AMD	372	204
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518	110	AMD	372	110	518	206	AMD	372	206
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518	112	AMD	372	109	518	208	AMD	372	208
518	113	AMD	372	112	518	209	AMD	372	209
518	114	AMD	372	113	518	210	AMD	372	210
518	115	AMD	372	114	518	211	AMD	372	211
518	116	AMD	372	115	518	212	AMD	372	212
518	117	AMD	372	116	518	213	AMD	372	213
518	118	AMD	372	117	518	214	AMD	372	214
518	119	AMD	372	118	518	215	AMD	372	215

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518	216	AMD	372	216	518	603	AMD	372	602
518	217	AMD	372	217	518	604	AMD	372	603
518	218	AMD	372	218	518	605	AMD	372	604
518	219	AMD	372	219	518	606	AMD	372	605
518	220	AMD	372	220	518	607	AMD	372	606
518	221	AMD	372	221	518	608	AMD	372	607
518	222	AMD	372	222	518	609	AMD	372	608
518	223	AMD	372	223	518	610	AMD	372	609
518	224	AMD	372	224	518	611	AMD	372	610
518	225	AMD	372	225	518	612	AMD	372	611
518	301	AMD	372	301	518	613	AMD	372	612
518	302	AMD	372	302	518	614	AMD	372	613
518	303	AMD	372	303	518	615	AMD	372	614
518	304	AMD	372	304	518	616	AMD	372	615
518	305	AMD	372	305	518	617	AMD	372	616
518	306	AMD	372	306	518	618	AMD	372	617
518	307	AMD	372	307	518	701	AMD	372	701
518	308	AMD	372	308	518	702	AMD	372	702
518	309	AMD	372	309	518	703	AMD	372	703
518	310	AMD	372	310	518	704	AMD	372	704
518	401	AMD	372	401	518	705	AMD	372	705
518	402	AMD	372	402	518	713	AMD	372	708
518	501	AMD	372	501	518	716	AMD	372	710
518	502	AMD	372	502	518	720	AMD	372	711
518	503	AMD	372	503	518	724	AMD	372	717
518	504	AMD	372	504	518	725	AMD	372	718
518	505	AMD	372	505	518	801	AMD	372	801
518	506	AMD	372	506	518	802	AMD	372	802
518	507	AMD	372	507	518	803	AMD	372	803
518	508	AMD	372	508	518	804	AMD	372	804
518	509	AMD	372	509	518	805	AMD	372	805
518	510	AMD	372	510	518	806	AMD	372	806
518	511	AMD	372	511	518	948	AMD	372	901
518	513	AMD	372	512	518	963	AMD	10	1
518	514	AMD	372	513					
518	515	AMD	372	514					
518	516	AMD	372	516					
518	602	AMD	372	601					
					LAWS 2006			LAWS 2006	
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## HISTORY OF STATE MEASURES FILED WITH THE SECRETARY OF STATE

### INITIATIVES TO THE PEOPLE

(SUPPLEMENTING 2005 LAWS, PAGE 2953)

- \*INITIATIVE MEASURE NO. 900** (Statement of Subject: Initiative Measure No. 900 concerns performance audits of governmental entities. Concise Description: This measure would direct the state auditor to conduct performance audits of state and local governments, and dedicate 0.16% of the state's portion of sales and use tax collections to fund these audits.)—Filed on January 10, 2005 by Tim Eyman, M.J. Fagan, and Leo J. Fagan. 311,858 signatures were turned in and the measure was submitted to the voters at the November 8, 2005 general election and was passed by the following vote: **For**—994,757 and **Against**—767,844.
- \*INITIATIVE MEASURE NO. 901** (Statement of Subject: Initiative Measure No. 901 concerns amending the Clean Indoor Air Act by expanding smoking prohibitions. Concise Description: This measure would prohibit smoking in buildings and vehicles open to the public and places of employment, including areas within 25 feet of doorways and ventilation openings unless a lesser distance is approved.)—Filed on January 10, 2005 by Christopher J. Covert-Bowlds. 321,615 signatures were turned in and the measure was submitted to the voters at the November 8, 2005 general election and was passed by the following vote: **For**—1,153,353 and **Against**—670,225.
- INITIATIVE MEASURE NO. 902 (Statement of Subject: Initiative Measure No. 902 concerns outsourcing jobs to foreign countries. Concise Description: This measure would classify entities outsourcing jobs to foreign countries as "ethically deficient" and bar "ethically deficient" business entities from doing business in Washington, while providing criminal penalties for "ethically deficient" municipal officers.)—Filed on January 10, 2005 by Kris Craig. No signatures were submitted for checking.
- INITIATIVE MEASURE NO. 903 (Relating to the initiative and referendum process.)—Filed on January 10, 2005 by Tim Eyman, M.J. Fagan, and Leo J. Fagan. The initiative was withdrawn.
- INITIATIVE MEASURE NO. 904 (Statement of Subject: Initiative Measure No. 904 concerns a process to provide citizens' opinions to governments. Concise Description: This measure would establish a network of citizen councilors, coordinated by the state auditor's office, where volunteers would meet in small groups and share their opinions on topics of public interest for tabulation.)—Filed on January 19, 2005 by Richard J. Spady. No signatures were submitted for checking.
- INITIATIVE MEASURE NO. 905 (Statement of Subject: Initiative Measure No. 905 concerns the initiative and referendum. Concise Description: This measure would require voter approval for changes in laws affecting the state initiative and referendum, provide expedited review of emergency clauses on bills, and require them to serve a compelling governmental purpose.)—Filed on January 26, 2005 by Tim Eyman, M.J. Fagan, and Leo J. Fagan. No signatures were submitted for checking.
- INITIATIVE MEASURE NO. 906 (Statement of Subject: Initiative Measure No. 906 concerns compensating property owners for certain land use restrictions. Concise Description: This measure would establish when state and local governments must compensate property owners for applying land use regulations, would identify exceptions, and

## INITIATIVES TO THE PEOPLE

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- would require compensation equal to the reduction in fair market value.)—Filed on January 11, 2005 by Katharine S. Jackson. No signatures were submitted for checking.
- INITIATIVE MEASURE NO.907 (**Statement of Subject: Initiative Measure No. 907 concerns energy conservation in homes. Concise Description: This measure would require residents of cities with a population of 500,000 or more, in homes with three or more bedrooms, to refrain from heating at least one bedroom from October to February.**)—Filed on January 31, 2005 by Mark Horan. No signatures were submitted for checking.
- INITIATIVE MEASURE NO.908 (**Statement of Subject: Initiative Measure No. 908 concerns vehicle license plates. Concise Description: This measure would require a car or other vehicle to have only one license plate, mounted on the rear of the vehicle. Existing statutes would be amended to reflect this change.**)—Filed on March 1, 2005 by Chris DeLong. No signatures were submitted for checking.
- INITIATIVE MEASURE NO.909 (**Statement of Subject: Initiative Measure No. 909 concerns motorcycles. Concise Description: This measure would make it lawful for a person over sixteen years of age to operate a small motorcycle known as a "pocket rocket" on the streets of any city or town.**)—Filed on March 14, 2005 by Troy Houghtaling. No signatures were submitted for checking.
- INITIATIVE MEASURE NO.910 (**Statement of Subject: Initiative Measure No. 910 concerns vehicle license fees. Concise Description: This measure would set vehicle license tab fees at 0.416 percent of vehicle value based on the original selling price, gradually depreciated, with maximum annual fees of \$250 and minimum fees of \$30.**)—Filed on April 22, 2005 by Lorinda Roland. No signatures were submitted for checking.
- INITIATIVE MEASURE NO.911 (**Statement of Subject: Initiative Measure No. 911 concerns smoking in public places. Concise Description: This measure would permit smoking in most public places except where minors are allowed, and would require all local governments to follow state laws concerning smoking in public places.**)—Filed on May 5, 2005 by Gary L. Murrey. No signatures were submitted for checking.
- INITIATIVE MEASURE NO.912 (**Statement of Subject: Initiative Measure No. 912 concerns motor vehicle fuel taxes. Concise Description: This measure would repeal motor vehicle fuel tax increases of 3 cents in 2005 and 2006, 2 cents in 2007, and 1.5 cents per gallon in 2008, enacted in 2005 for transportation purposes.**)—Filed on May 12, 2005 by Jane M. Milhans. 400,996 signatures were turned in and the measure was submitted to the voters at the November 8, 2005 general election and was rejected by the following vote: **For**—823,366 and **Against**—991,196.

**INITIATIVES TO THE LEGISLATURE**  
(SUPPLEMENTING 2005 LAWS, PAGE 2984)

- INITIATIVE TO THE LEGISLATURE NO. 339 (**Relating to limiting state and local government charges on motor vehicles.**)—Filed on April 13, 2005 by Tim Eyman, M.J. Fagan, and Leo J. Fagan of Spokane. The initiative was withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 340 (**Relating to limiting state and local government charges on motor vehicles.**)—Filed on April 27, 2005 by Tim Eyman, M.J. Fagan, and Leo J. Fagan of Spokane. The initiative was withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 341 (**Statement of Subject: Initiative Measure No. 341 concerns a process to provide citizens' opinions to governments. Concise Description: This measure would establish a network of citizen councilors, coordinated by the state auditor's office, where volunteers would meet in small groups and share their opinions on topics of public interest for tabulation.**)—Filed on May 9, 2005 by Richard J. Spady of Bellevue. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 342 (**Statement of Subject: Initiative Measure No. 342 concerns limiting motor vehicle charges. Concise Description: This measure would cap motor vehicle registration charges at \$30 per year, repeal taxes and fees exceeding the \$30 limit, calculate vehicle taxes and fees based on purchase price, and retire certain bonds.**)—Filed on May 17, 2005 by Tim Eyman, Leo J. Fagan, and M.J. Fagan of Spokane. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 343 (**Statement of Subject: Initiative Measure No. 343 concerns citizenship. Concise Description: This measure would require voter registration applicants to supply proof of citizenship and other information, require additional identification to vote, and require government agencies administering benefits to verify citizenship and report immigration violations.**)—Filed on June 14, 2005 by Martin D. Ringhofer of Soap Lake. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 344 (**Statement of Subject: Initiative Measure No. 344 concerns qualifications for elective state office. Concise Description: This measure would require every candidate for elective state office to pass the tenth grade Washington assessment of student learning (WASL) test, and to file an affidavit so certifying before filing for office.**)—Filed on June 30, 2005 by Donald D. Hansler of Spanaway. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 345 (**Statement of Subject: Initiative Measure No. 345 concerns teaching about the Declaration of Independence in schools. Concise Description: This measure would require public and private schools to teach the relationship of the Declaration of Independence to the Constitution of the United States and to the Constitution of the state of Washington.**)—Filed on July 18, 2005 by Ray D. Benham of Kennewick. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 346 (**Statement of Subject: Initiative Measure No. 346 concerns health insurance. Concise Description: This measure would prohibit certain providers of health insurance from accumulating capital and surplus greater than two months claim expenses, and would require refunds to policy holders of any amount over that limit.**)—Filed on July 19, 2005 by Curtis L. Fackler of Spokane. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 347 (**Statement of Subject: Initiative Measure No. 347 concerns calling for enactment of a National Initiative and Referendum Amendment. Concise Description: This measure would direct the legislature to enact legislation petitioning Congress to call a national constitutional convention to consider and establish a National Initiative and Referendum Amendment as set forth in the measure.**)—Filed on July 25, 2005 by Richard Lee Moore of Underwood. No signature

## INITIATIVES TO THE LEGISLATURE

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petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 348 (**Statement of Subject: Initiative Measure No. 348 concerns limiting motor vehicle charges. Concise Description: This measure would cap motor vehicle registration charges at \$30 per year, repeal taxes and fees exceeding the \$30 limit, calculate vehicle taxes and fees based on purchase price, and retire certain bonds.**)—Filed on September 14, 2005 by Tim Eyman, Leo J. Fagan and M.J. Fagan of Spokane. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 349 (**Relating to revenues and fees for state and local governments.**)—Filed on October 24, 2005 by Tim Eyman, Leo J. Fagan and M.J. Fagan of Spokane. The measure was withdrawn by the sponsor.

INITIATIVE TO THE LEGISLATURE NO. 350 (**Statement of Subject: Initiative Measure No. 350 concerns transportation. Concise Description: This measure would open carpool lanes during off-peak hours, dedicate state sales and use taxes on motor vehicles to fund traffic congestion relief projects as defined, and require the state to issue bonds.**)—Filed on October 24, 2005 by Tim Eyman, Leo J. Fagan and M.J. Fagan of Spokane. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 351 (**Statement of Subject: Initiative Measure No. 351 concerns prohibiting discrimination and preferential treatment. Concise Description: This measure would prohibit public and private entities from using race, sex, color, ethnicity, or national origin in decisions about employment, contracting, subcontracting, college admissions and school assignment, and limit collection of data.**)—Filed on October 24, 2005 by Tim Eyman, Leo J. Fagan and M.J. Fagan of Spokane. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 352 (**Statement of Subject: Initiative Measure No. 352 concerns revenue and fee increases. Concise Description: This measure would require state and local governments to receive approval by a two-thirds vote of the legislative body or a majority of the voters at an election to increase revenues or fees.**)—Filed on October 24, 2005 by Tim Eyman, Leo J. Fagan and M.J. Fagan of Spokane. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 353 (**Statement of Subject: Initiative Measure No. 353 concerns estate tax. Concise Description: This measure would repeal Washington's state laws imposing tax on the transfer of certain estates, and would apply to the estates of persons dying on or after the effective date of this measure.**)—Filed on November 22, 2005 by Dennis Falk of Fox Island. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 354 (**Statement of Subject: Initiative Measure No. 354 concerns classroom instructional expenditures by school districts. Concise Description: This measure would require that beginning with the 2007-2008 school year, school districts must spend at least 65% of their operational budgets on classroom instruction, subject to waiver and exceptions under certain circumstances.**)—Filed on November 23, 2005 by Brian Janssen of Seattle. No signature petitions were presented for checking.

**REFERENDUM MEASURES**  
**(SUPPLEMENTING 2005 LAWS, PAGE 2991)**

REFERENDUM MEASURE NO. 59 Substitute Senate Bill 5078. Filed on April 19, 2005 by Daniel W. Wood of Olympia. The measure was withdrawn by the sponsor.

REFERENDUM MEASURE NO. 60 Substitute Senate Bill 5078, Sections 1 and 2. Filed on April 25, 2005 by Daniel W. Wood of Olympia. The measure was rejected because of the emergency clause.

REFERENDUM MEASURE NO. 61 Engrossed Substitute Senate Bill 6103, Section 102 (4), (5), (6). Filed on May 11, 2005 by Will Knedlik of Kirkland. The measure was rejected because of the emergency clause.

REFERENDUM MEASURE NO. 62 Engrossed Substitute Senate Bill 6103, Sections 108, 110-111, 201-206, 301-302, and 402-407. **(Statement of Subject: The legislature passed Engrossed Substitute Senate Bill 6103 (ESSB 6103) concerning transportation revenue [and voters have filed a referendum petition on the parts of ESSB 6103 that are subject to referendum]. Concise Description: The referable parts of ESSB 6103 would direct annual transfers of \$5 million to the transportation infrastructure account, establish motor vehicle weight fees and a trailer license fee, and increase fees for reflectorized plates and replacement plates.)**—Filed on July 1, 2005 by Richard Pope of Bellevue. No signatures were presented for checking.

\*Term "Failed to pass" indicates sponsor or Referendum was successful in attempt to prevent measure from

[ 2179 ] becoming effective law.





**HISTORY OF CONSTITUTIONAL AMENDMENTS  
ADOPTED SINCE STATEHOOD  
(SUPPLEMENTING 2005 LAWS, PAGE 3001)**

No. 97. Section 31, Article IV. Re: **Commission on judicial conduct.** Adopted November, 2005.

